

Bruce Johnson

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UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 1:17-CV-10161

- - - - -x

ELISABETH DOHERTY,

Plaintiff,

v.

AMERICAN INTERNATIONAL COLLEGE,

Defendant.

- - - - -x

DEPOSITION OF BRUCE D. JOHNSON

March 21, 2018

10:06 a.m. - 12:49 p.m.

BOWDITCH & DEWEY

200 Crossing Boulevard

Framingham, Massachusetts

Reporter: Penni L. LaLiberté, CSR

Bruce Johnson

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1 P R O C E E D I N G S

2 BRUCE D. JOHNSON,
3 having been satisfactorily identified and duly sworn
4 by the Notary Public, was examined and testified as
5 follows:

6
7 DIRECT EXAMINATION

8
9 MR. ANGUEIRA: And just for the
10 record, the stipulations are the usual which means
11 that all objections are reserved until the time of
12 trial except objections as to the form of question
13 or motions to strike reserved until the time of
14 trial. The deponent will read and sign his
15 deposition transcript within 30 days. If he needs
16 additional time, counsel can request that, and we
17 can accommodate that request.

18 And there's some additional comments
19 from defense counsel regarding confidentiality
20 matters contained in this deposition transcript.

21 MS. SULLIVAN: Yes. I just wanted
22 to state on the record that we've agreed the
23 parties, for the ease of transcribing the deposition
24 here today, without designating portions as

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1 confidential, that any names of students that come
2 up that would be protected under FERPA will be
3 redacted by the parties prior to submission in
4 connection with any motions to the Court and
5 pursuant to the Court's protective order.

6 MR. ANGUEIRA: That's fine.

7 BY MR. ANGUEIRA:

8 Q. All right. What is your name, sir?

9 A. Bruce Johnson.

10 Q. Mr. Johnson, have you ever had a
11 deposition?

12 A. No.

13 Q. All right. I'm sure your lawyer has
14 explained the basics to you. I'm going to ask you
15 some questions. I am a lawyer, and I represent
16 Ms. Doherty.

17 If you do not understand anything
18 that I ask you, please let me know. I will try to
19 repeat it and rephrase it; otherwise, I'll -- my
20 understanding will be that you do understand the
21 question and you're answering it.

22 Always respond verbally. By that I
23 mean words as opposed to gestures and sounds. Like
24 that nod of the head you're doing now, it's great

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1 for social conversation --

2 A. Okay.

3 Q. -- but if I ask you to repeat an answer,
4 it's probably because you haven't responded
5 verbally.

6 The other thing that happens
7 frequently is you can anticipate many of my
8 questions and begin to speak before I finish it, so
9 what I tend to do is instead of interrupting you,
10 I'll raise my hand, not to be disrespectful, but
11 it's a symbol to you to hold off, let me finish my
12 question, and then answer the question.

13 A. Okay.

14 Q. And then finally, if you need a break for
15 any reason, let us know. We'll try to accommodate
16 you as much as we can. There's a rule that says
17 you're supposed to answer a question before taking a
18 break. Counsel and I may vary that rule if need be.
19 If you really need to talk to your lawyer, we'll
20 figure out a way to get that done and make it
21 happen. All right?

22 A. So if I'm not quite sure about a question,
23 I can ask counsel to meet or --

24 Q. Well, first if you don't understand my

Bruce Johnson

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1 question, please let me know.

2 A. Okay.

3 Q. Then if you do understand my question and
4 you still have an issue, then you -- you do want to
5 address your counsel, and she and I can figure out
6 what to do. Okay? We want to make it as
7 comfortable as possible.

8 A. Sure.

9 Q. What is your home address?

10 A. 110 Main Street, Northampton,
11 Massachusetts.

12 Q. All right. And are you currently
13 employed?

14 A. Yes.

15 Q. By whom are you employed?

16 A. American International College.

17 Q. And what's your position with the college?

18 A. Professor of English.

19 Q. And how long have you been with the
20 college?

21 A. 28 years.

22 Q. All right.

23 A. Teaching for 20, yeah.

24 Q. Okay. What did you do before you began

Bruce Johnson

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1 teaching?

2 A. I worked as an academic advisor.

3 Q. All right. And is that the only subject
4 that you teach is English?

5 A. Correct.

6 Q. All right. And just briefly, what college
7 did you go to and when did you graduate?

8 A. I went to the University of Massachusetts
9 Amherst and graduated in 1983.

10 Q. Okay. What degree?

11 A. English.

12 Q. Any further education?

13 A. Yes. I earned a master's at UMass Amherst
14 in '86, a master's in education.

15 Q. Any further education after that?

16 A. And my doctorate in 2002 at University of
17 Massachusetts.

18 Q. Okay. Any other formal education?

19 A. Nothing.

20 Q. Okay. Now, you understand that you're
21 here to answer some questions regarding a Title 9
22 investigation at the college conducted regarding
23 some complaints made by Ms. Doherty?

24 A. Yes.

Bruce Johnson

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1 Q. All right. And what experience, if any,
2 did you have with Title 9 investigations or hearings
3 before you became involved in the Doherty matter?

4 A. Okay. I've served on -- I served on an
5 appellate board for student -- I guess it's student
6 behavior, any issue that was non-academic, you know,
7 bad conduct, that kind of thing. I served on an
8 appellate board, so we heard cases that students
9 appealed. I still serve on the faculty athletic
10 council, and we hear cases regarding students who
11 drug test positively, maybe, you know, a scholarship
12 might be taken away, a student might charge that.
13 And of course I had Title 9 training for two
14 years -- or two training sessions of Title 9
15 training away from those two other experiences.

16 Q. Have you completed your answer?

17 A. Yes.

18 Q. Okay. The appellate board issue on
19 student behavior, prior to it getting to the level
20 of an appeal where you would get involved, at this
21 college would there typically be an investigation
22 and some hearing regarding the allegations?

23 A. Yes.

24 Q. Were you ever involved in that part of the

Bruce Johnson

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1 process?

2 A. No.

3 Q. So you didn't have any experience
4 whatsoever in the investigatory role or the hearing
5 in terms of allegations of misconduct by a student,
6 correct?

7 A. Correct.

8 Q. So what training or education did you
9 receive with respect to sitting as an appellate
10 board member, if any?

11 A. We had training -- boy, this is going back
12 a ways. I had -- I can't really answer that. I
13 know I had training for this board, but I don't know
14 what it involved to be honest with you.

15 Q. That's okay. And that's what we want you
16 to tell us, what you can remember. And if you
17 can't, just tell us.

18 A. We learned about -- there are three -- you
19 know, was the charge -- we learned sort of like
20 three things to look for: New evidence had emerged,
21 the punishment didn't fit the crime, and there was a
22 third element which I can't remember. But we're
23 sort of trained on understanding -- those were the
24 three reasons a student could appeal a case, and it

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1 had to fit those three categories.

2 Q. All right. If you remember or if you
3 know, was it part of the appellate process to review
4 the evidence, the existing evidence, without any new
5 evidence and determine whether or not the hearing
6 panel conducted itself appropriately and whether or
7 not the result was appropriate, or was it limited to
8 these three specific areas, two of which you've
9 already identified? Do you understand my question?

10 A. Yes.

11 Q. Okay.

12 A. I don't recall if it involved reviewing
13 evidence.

14 Q. Okay. Do you still sit on that appellate
15 board?

16 A. No.

17 Q. All right. Second --

18 A. I'm sorry, I believe it was like a three-
19 or four-year commitment.

20 Q. Okay. Faculty advisory counsel, you would
21 hear drug cases, scholarship-related matters. Would
22 you be part of the investigatory process or the
23 hearing process or another component of that
24 process?

Bruce Johnson

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1 A. I'm not part of the investigation with
2 that committee. It's academics and athletics board.

3 Q. Okay.

4 A. There is an attorney on that board, and I
5 think she does the investigative work with the
6 athletic director or people involved there, but I'm
7 not part of that.

8 Q. So what role do you have with respect to
9 those issues?

10 A. We review a case and determine by vote the
11 outcome.

12 Q. And when you say you review the case, do
13 you actually hear the evidence? Is that the --

14 A. Correct, yes.

15 Q. Is it part of a hearing, or is it all just
16 written notes, or what does it entail?

17 A. We meet -- I'm trying to think now. It
18 very rarely happens. We meet ahead of time to
19 review the case, and then we hear the case.

20 Q. And when you say "hear the case," do you
21 hear live testimony from witnesses?

22 A. Yes. A student arrives with or without
23 witnesses, usually not, and states his or her case,
24 explains the circumstances, and then we vote.

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1 Q. Okay. And the last component of your
2 training or education you mentioned was Title 9
3 training. You said something about two years or two
4 sessions, and I was a little confused by your
5 answer. Am I correct that you had two separate
6 training sessions?

7 A. Yes.

8 Q. When were they?

9 A. I believe -- I don't know for sure. I
10 believe they were the year or the two years
11 preceding the incident.

12 Q. So you had two separate training sessions,
13 both which occurred prior to Ms. Doherty's hearing?

14 A. Correct.

15 Q. And how long was each session?

16 A. I would say in the vicinity of about two
17 hours.

18 Q. And where was the training?

19 A. On campus.

20 Q. And who provided the training?

21 A. Attorney Sullivan.

22 Q. And were you provided with written
23 materials?

24 A. Yes.

Bruce Johnson

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1 Q. Were you provided with -- well, instead of
2 my guessing, tell me what did the training consist
3 of?

4 A. We sat in a big conference room. There
5 was a video set up. We had lots of written
6 materials. We learned how to ask questions, how to
7 sort of bring no bias in, any preconceived ideas on
8 things, sort of the different nuances of cases. I'm
9 not fully clear. This is five or six -- five years
10 ago now. And we also did a couple of sort of case
11 studies where we worked in groups on a hypothetical,
12 you know, case, and I think we -- I'm not perfectly
13 sure, but I think we sort of documented questions
14 we'd ask in that case. So we were practicing on
15 hypothetical cases.

16 Q. Okay. What type of questions did you
17 learn that you should ask? And my follow-up
18 question is going to be, what type of questions were
19 you trained that you should not be asking?

20 A. I can't recall specifically.

21 Q. Either one? Either subject?

22 A. I could give a logical response. I'm just
23 not sure if that was part of training.

24 Q. I don't want a logical response because

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1 that's not the same as what you were trained to do
2 and not to do. So is it your testimony that you do
3 not recall what that training consisted of with
4 respect to what you learned about the types of
5 questions you should ask or the types of questions
6 that you should not ask?

7 A. No. We trained on the kinds of questions
8 that were good and bad.

9 Q. Okay.

10 A. For instance, you would, you know, not ask
11 someone what she was wearing. I mean we're trying
12 to, you know, keep our minds open on things. I'm
13 trying to think. Just, you know, what they said
14 during the encounter, what they said to friends, who
15 they reported to, what they thought happened, you
16 know, in a certain timely sequence.

17 Let me think what else we were
18 asked. Yeah, it's -- and then some of the more
19 negative questions would be something like I said
20 before, asking what someone -- you know, what she
21 wore or asking questions that would be somehow, you
22 know, hurtful or bring someone back to the
23 experience; you know, we try to -- as much as these
24 questions are uncomfortable, there's a way to ask

Bruce Johnson

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1 them in such a manner that is sensitive to the
2 person but -- yeah.

3 Q. Okay. Were you --

4 A. I'm sorry, I just want to finish.

5 Q. Yes.

6 A. It's just a little bit unclear on
7 specifically the kinds of questions we were told to
8 ask and not ask. We trained on this and we did it
9 all. I'm just not recalling them right now.

10 Q. Do you still sit on Title 9 hearings?

11 A. I do not, no.

12 Q. So, for example, if you were a hearing
13 officer on a case involving a Title 9 allegation of
14 a student -- female student having been raped, and
15 you had some doubt in your mind as to whether or not
16 the rape occurred because of the manner in which the
17 woman acted during the rape, including whether or
18 not she yelled or screamed loud enough, were you
19 trained that it was appropriate to ask the woman how
20 loud she screamed and why she didn't scream louder?

21 MS. SULLIVAN: Objection. You can
22 answer, if you know.

23 THE WITNESS: Excuse me?

24 MS. SULLIVAN: I said you can

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1 answer.

2 THE WITNESS: No.

3 BY MR. ANGUEIRA:

4 Q. That would have been highly inappropriate?

5 A. Correct.

6 MS. SULLIVAN: Objection.

7 BY MR. ANGUEIRA:

8 Q. And inconsistent with your training,
9 correct?

10 A. Can you repeat the question?

11 MS. SULLIVAN: Objection.

12 BY MR. ANGUEIRA:

13 Q. The first one or the one I just asked?

14 A. The first one.

15 MR. ANGUEIRA: And I'm going to have
16 the stenographer read it back so it's exactly the
17 way I asked it because I can't remember exactly the
18 way I asked it.

19 (Record read.)

20 MS. SULLIVAN: Objection.

21 BY MR. ANGUEIRA:

22 Q. And your answer -- I think he's confused
23 when you object.

24 MS. SULLIVAN: Okay. So I'm

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1 objecting to the form of the question. You can
2 answer. If you know, you can answer.

3 THE WITNESS: No.

4 BY MR. ANGUEIRA:

5 Q. So you -- I want to understand your
6 answer. You said you were not trained that it was
7 inappropriate to ask those types of questions; is
8 that --

9 A. That's not -- I'm sorry, that's not what I
10 said.

11 Q. That's what I thought. That's why I asked
12 again.

13 So am I correct that you were
14 trained during the Title 9 training, at least one of
15 the two sessions, that those types of questions were
16 inappropriate?

17 A. Yes.

18 Q. Okay. Did you need that type of training
19 to tell you that, or did you have some sense that
20 that was inappropriate anyway?

21 MS. SULLIVAN: Objection. You can
22 answer.

23 THE WITNESS: I'm sorry, I get
24 confused when you ask a question and you object. I

Bruce Johnson

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1 don't know what that means.

2 MR. ANGUEIRA: I'm going to help.
3 She's doing a great job though. Lawyers have an
4 obligation to object if they think that the question
5 that's being asked is inappropriate. That's legal
6 stuff for a judge later on. It should not interfere
7 with your ability to answer the question; however,
8 she's the only one you listen to in this place. If
9 she doesn't want you to answer a question, she'll
10 tell you. She'll say I don't want you to answer the
11 question, and then she and I will have a discussion.

12 But when you hear an objection,
13 don't worry about it, but wait for instructions. So
14 if you can answer the question, go ahead. What
15 happens is you're listening to that, you forget the
16 question, and then we've got to go back. I don't
17 know if that helps.

18 MS. SULLIVAN: Yes. Do you mind if
19 we take a quick break so I can just talk to him?

20 MR. ANGUEIRA: Sure.

21 (Recess taken.)

22 MR. ANGUEIRA: All right.

23 MS. SULLIVAN: Do you want to read
24 the question back again? Do you feel like that was

Bruce Johnson

21

1 asked and answered?

2 MR. ANGUEIRA: Unless the witness
3 thinks he needs to clarify something, I believe it
4 was answered.

5 Do you need to clarify anything
6 about your answer?

7 THE WITNESS: I need to hear the
8 question again.

9 MS. SULLIVAN: I think the objection
10 made it muddled for him.

11 THE WITNESS: I'd like to hear the
12 question and my -- I'm not sure I answered the right
13 way to be honest with you.

14 MR. ANGUEIRA: Then in fairness to
15 you, and to make sure the record is accurate, let me
16 ask the question again and maybe break it down.

17 MS. SULLIVAN: It was very long.

18 BY MR. ANGUEIRA:

19 Q. So let's -- I'm asking about the training
20 that you received; do you understand that?

21 A. Yes.

22 Q. And during that training you told us that
23 you were trained about what types of questions to
24 ask and what types of questions not to ask, correct?

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22

1 A. Correct.

2 Q. So during the course of the training did
3 they discuss the kinds of questions that you should
4 be asking the victim of a sexual assault, a rape
5 victim?

6 A. Yes.

7 Q. Okay. And during that training did they
8 instruct you in the types of questions that would be
9 inappropriate?

10 A. Yes.

11 Q. And was part of the training that you
12 received as to what questions would be inappropriate
13 to ask a rape victim why she didn't scream louder
14 than she actually did?

15 A. No. That was never asked --

16 Q. Okay. So you were never --

17 A. -- as part of training, correct.

18 Q. So whatever testimony you gave before was
19 not accurate about that?

20 A. Correct. I misunderstood the question at
21 that time.

22 Q. That's okay. So did you ever receive any
23 training about what the rape victim was wearing?

24 A. Only in that it doesn't matter what a rape

Bruce Johnson

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1 victim wears.

2 Q. Okay. Were you trained not to ask the
3 rape victim what she was wearing?

4 A. No -- yes, we were trained not to ask
5 that, correct.

6 Q. And you understood the reason for that was
7 because that would be inappropriate, correct?

8 A. Correct.

9 Q. Were you trained to ask a rape victim
10 whether or not she consented to the sex?

11 A. I don't recall.

12 Q. Okay. Were you trained to ask a rape
13 victim whether or not -- during the course of any
14 sexual event, if it was consensual at the beginning,
15 whether or not at some point in time it became
16 non-consensual?

17 A. Yes.

18 Q. Okay. Did you understand as part of your
19 training that a woman has the right to engage in
20 whatever sexual activity she feels like, as long as
21 it's not harming someone else, and during the course
22 of those events can change her mind at any time, and
23 the person that she's with, particularly a student
24 of the university, has the obligation to stop? Did

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1 you understand that as part of your training?

2 A. Yes. I've understood that when the word
3 no is spoken, everything stops, regardless of where
4 the sex has taken them. It's sort of a fundamental
5 belief in this kind of thing.

6 Q. Okay. I understand. Fundamental beliefs
7 are one thing, but I'm focused on your training.
8 Your statement is accurate, correct?

9 A. Correct.

10 Q. Okay. Do you know what the Cleary Act is?

11 A. I do not.

12 Q. Never heard of it?

13 A. No.

14 Q. Do you know whether or not colleges like
15 the college you work with had any type of obligation
16 or duty or responsibility of reporting sexual
17 assaults on its campus?

18 A. Yes, I do.

19 Q. Had you ever seen those reports prior to
20 the Doherty incident?

21 A. No.

22 Q. Did you know that those reports are a
23 matter of public record?

24 A. I do.

Bruce Johnson

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1 Q. Do you know how many sexual assaults there
2 had been at this campus prior to the Doherty
3 assault?

4 A. No idea.

5 MS. SULLIVAN: Objection.

6 BY MR. ANGUEIRA:

7 Q. Did you ever look at that information?

8 A. No.

9 Q. As part of your training were you told
10 that this information is available?

11 A. I don't recall.

12 Q. Have you ever read or reviewed any of the
13 Department of Education guidelines regarding Title 9
14 rights?

15 A. Department of Education?

16 Q. Mm-hmm.

17 A. I don't know.

18 Q. Do you know if they even exist? Not the
19 Department of Education, I mean guidelines issued by
20 the DOE regarding Title 9 rights.

21 A. I don't know.

22 Q. We were talking about your involvement in
23 investigations and hearings, and the question that I
24 want to ask you now is, apart from your training how

Bruce Johnson

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1 many actual Title 9 investigations or hearings were
2 you actually involved in as an active participant
3 before the Doherty matter?

4 A. I don't think any. I think none.

5 Q. As part of any education or training that
6 you've had, including your education in terms of
7 being a professor and a teacher, have you ever
8 received any education or training in dealing with
9 victims of sexual assault?

10 A. Could you -- do you mean as part of the
11 committee we worked on or just in general?

12 Q. At any point in time during your
13 professional career, including your education and
14 training as an educator --

15 A. Yeah.

16 Q. -- and your positions at the college in
17 terms of investigations and hearings of sexual
18 misconduct or misconduct, have you ever learned
19 anything about the appropriate way of dealing with
20 victims of sexual assault?

21 A. Yes. There have been videos. We, I
22 think -- I'm not sure if it's biannual or -- I know
23 that we have -- it's a requirement that we watch
24 videos and pass an exam. I think that's part of the

Bruce Johnson

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1 video. That's regular.

2 Q. Are you talking about sexual
3 discrimination, or are you --

4 A. No. Sexual harassment, too. They give
5 scenarios with people in an office or a college, and
6 we have to study, learn the policies and recognize
7 and answer questions.

8 Q. Okay. But more specifically my question
9 deals with the appropriate way or ways of dealing
10 with victims of sexual assaults, not just
11 harassment, even though sexual assault is a form of
12 harassment or discrimination. But, for example, a
13 woman has been actually raped and traumatized by
14 that rape. Have you ever learned anything about how
15 to deal with those victims?

16 A. I don't know for sure. I guess I thought
17 it was part of the training that we had with
18 Attorney Sullivan.

19 Q. Okay. Did you learn during any part of
20 your training or education in dealing with victims
21 of sexual abuse or sexual assaults that these women
22 are often traumatized and that the trauma can affect
23 their memories?

24 MS. SULLIVAN: Objection. You can

Bruce Johnson

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1 answer.

2 THE WITNESS: I don't recall.

3 BY MR. ANGUEIRA:

4 Q. Do you know anything about post-traumatic
5 stress disorder?

6 A. Yes.

7 Q. What's your general understanding of what
8 that is?

9 A. It's a very serious condition that comes
10 after a traumatic event in a person's life and can
11 have all sorts of negative consequences for any
12 length of time --

13 Q. Do you know --

14 A. -- recognizable or not.

15 Q. Do you know if women that have been raped
16 can suffer from PTSD?

17 A. Absolutely.

18 Q. Do you know whether or not women who have
19 been raped and suffer from PTSD can forget parts of
20 their rape?

21 MS. SULLIVAN: Objection. You can
22 answer.

23 THE WITNESS: Yeah, I don't know
24 that specific point you make.

Bruce Johnson

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1 BY MR. ANGUEIRA:

2 Q. Do you know what repressed memories are?

3 A. Yes.

4 Q. What are they to your understanding?

5 A. Memories we've pushed out of our -- into
6 our subconscious, and they exist and can reveal
7 themselves from time to time.

8 Q. So you understood during the course of
9 your participation in the Doherty matter -- the
10 Doherty hearing, that as a rape victim suffering
11 from whatever condition she may have been suffering
12 from, that may have affected her ability to recall
13 and testify about events, correct?

14 MS. SULLIVAN: Objection. You can
15 answer.

16 THE WITNESS: I have no way of
17 knowing that.

18 BY MR. ANGUEIRA:

19 Q. Okay. You had no way of knowing that at
20 the time, correct?

21 A. Correct.

22 Q. All right. So you didn't take that into
23 consideration in determining issues regarding her
24 credibility?

Bruce Johnson

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1 A. I didn't say I wouldn't take into
2 consideration what my common sense would tell me,
3 but I -- could you repeat the question again?

4 Q. Sure. Did you take into account in
5 determining Ms. Doherty's credibility, with respect
6 to participation in her Title 9 hearing, whether or
7 not her memory could have been impacted as a result
8 of the trauma that she sustained during this rape?

9 A. I did not.

10 Q. Now, we marked at the beginning of this
11 deposition a bunch of paperwork that was provided to
12 us by the college in this litigation, and I'm going
13 to have you formally identify for us -- and your
14 counsel may be able to assist you what these things
15 are if you don't know.

16 This is Exhibit 1. Can you look at
17 that document and tell us whether or not you know
18 what that is.

19 (Deposition Exhibit 1 was marked.)

20 THE WITNESS: Looks like it's part
21 of the student handbook. I mean do I know what this
22 document is?

23 BY MR. ANGUEIRA:

24 Q. Yes.

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1 A. Yes.

2 Q. Okay. What is it?

3 A. It's a --

4 Q. Well, what's the title of the document?

5 A. American International College Manual,
6 Fire and Safety Report.

7 Q. Have you ever seen that document before
8 today?

9 A. I don't know.

10 Q. Okay. Do you know whether or not there's
11 anything in that document about Title 9 policies or
12 procedures of the college?

13 A. I don't know.

14 Q. Have you ever read the --

15 A. I can't recall I should say. I can't
16 recall.

17 Q. Okay. Have you ever read any of the
18 Title 9 policies and procedures in the college
19 manuals including the student handbooks?

20 A. Yes.

21 Q. All right. Can I have that back, please.

22 A. Sure.

23 (Deposition Exhibit 2 was marked.)

24 BY MR. ANGUEIRA:

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1 Q. I'm showing you Exhibit Number 2, and do
2 you know what that is?

3 A. Victim's Rights Statement. I don't
4 recall.

5 Q. Okay.

6 (Deposition Exhibits 3 and 4 were marked.)

7 BY MR. ANGUEIRA:

8 Q. Showing you Exhibit Numbers 3 and 4 at the
9 same time. These are exhibits that were provided to
10 us in conjunction with this litigation. And they
11 appear similar, but there are some differences. And
12 I'm asking you whether or not you know what these
13 two documents are?

14 A. Looks like the texting exchange between
15 Ms. Doherty and [REDACTED] I believe, right?

16 Q. Okay.

17 MS. SULLIVAN: Is the only
18 difference the redactions?

19 MR. ANGUEIRA: Yes.

20 MS. SULLIVAN: Oh, okay.

21 THE WITNESS: These I certainly
22 read.

23 MR. ANGUEIRA: Okay. Let me have
24 that back. And then I'm going to show you Exhibit 5

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1 and ask you what that is.

2 (Deposition Exhibit 5 was marked.)

3 THE WITNESS: These are the
4 reports -- I've read these as well. These are the
5 reports from the evening.

6 BY MR. ANGUEIRA:

7 Q. And when you say, "the reports from the
8 evening" --

9 A. Police report. Let me just look it over.

10 Q. Take a better look at it because I'm going
11 to ask you if -- and I have a few of these, if these
12 are statements provided by witnesses or police
13 officers or exactly what they are, and then for the
14 name of the individual who provided the report, if
15 you can even tell with the redactions.

16 A. This looks like Elisabeth's report.

17 Q. So that's Ms. Doherty's report?

18 A. Correct.

19 Q. Okay. And did you have that available to
20 you during the course of your hearing?

21 A. Yes.

22 Q. And did you --

23 A. I don't recall. I mean I -- I know we
24 read all the police reports, and we had everything

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1 available to us --

2 Q. Okay.

3 A. -- so I assume, yes.

4 Q. Okay. So at some point you're either --
5 either before, during, or after the hearing, before
6 you made a decision on her case, you had access to
7 that information?

8 A. Before.

9 (Deposition Exhibit 6 was marked.)

10 BY MR. ANGUEIRA:

11 Q. Okay. Exhibit 6, what is that?

12 A. This is a witness statement.

13 Q. Can you identify the witness for us?

14 A. By name, no.

15 Q. All right. Let's go off the record.

16 A. Possibly -- I don't know for sure.

17 MR. ANGUEIRA: No guessing. Let's
18 go off the record.

19 (Discussion held off the record.)

20 MR. ANGUEIRA: So defense counsel
21 has agreed to identify the names of these witness
22 statements, even though the documents have the name
23 redacted. And this is all in conjunction with the
24 statement defense counsel made, this information

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1 will be kept confidential.

2 So whose statement is that?

3 MS. SULLIVAN: So this is the
4 statement of [REDACTED] [REDACTED] And that's

5 [REDACTED] I believe, [REDACTED]

6 MR. ANGUEIRA: And by "this" you're
7 referring to Exhibit 6?

8 MS. SULLIVAN: Yes, Exhibit 6.

9 (Deposition Exhibit 7 was marked.)

10 BY MR. ANGUEIRA:

11 Q. Showing you Exhibit 7, and maybe it's
12 easier for your counsel to tell us who the witness
13 is.

14 Do we know whose witness statement
15 this one is?

16 MS. SULLIVAN: That is [REDACTED] [REDACTED]

17 BY MR. ANGUEIRA:

18 Q. Okay. Now, sir, can you look at [REDACTED]
19 [REDACTED] statement contained in Exhibit 7, and is
20 this a document you also had available to you during
21 the --

22 A. Yes.

23 Q. -- during the hearing process and/or
24 before?

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1 A. Yes. Before.

2 (Deposition Exhibit 8 was marked.)

3 MR. ANGUEIRA: Okay. Looking at
4 Exhibit 8, can we identify who that witness is?

5 MS. SULLIVAN: That is [REDACTED]

6 [REDACTED] I believe it's [REDACTED]

7 MR. ANGUEIRA: Close enough.

8 MS. SULLIVAN: Yeah.

9 BY MR. ANGUEIRA:

10 Q. All right. And is Mr. [REDACTED]
11 statement another piece of evidence that you had
12 available to you?

13 A. Yes.

14 (Deposition Exhibit 9 was marked.)

15 MR. ANGUEIRA: All right. Looking
16 at Exhibit 9, whose statement is that?

17 MS. SULLIVAN: I don't want --

18 MR. ANGUEIRA: You were on a roll.

19 MS. SULLIVAN: I believe I know who
20 that is, but I hate to commit without
21 double-checking so --

22 MR. ANGUEIRA: You can double-check
23 later.

24 MS. SULLIVAN: I believe it's -- I

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1 believe that is the statement of [REDACTED] [REDACTED]

2 [REDACTED] [REDACTED]

3 BY MR. ANGUEIRA:

4 Q. Okay. And if this is, in fact,
5 Ms. [REDACTED] statement, is this information you had
6 available to you during the Title 9 process?

7 A. Yes.

8 (Deposition Exhibit 10 was marked.)

9 BY MR. ANGUEIRA:

10 Q. Okay. Thank you. Looking at Exhibit 10,
11 this appears to be an e-mail from Cindy Shiveley to
12 several people. And it says, "Hi, Matt, attached is
13 a write-up of the investigation."

14 Look at this document and tell us
15 whether or not you know what that is, and then what
16 is it.

17 A. Yes. This was the investigation report
18 from Cindy and Terrance, and we had this before the
19 hearing as well.

20 Q. Okay. So am I correct that when
21 Ms. Doherty reported her allegations that the
22 college undertook an investigation?

23 A. Yes.

24 Q. Okay. And as a result of that

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1 investigation, the hearing officers on her case were
2 provided with that document?

3 A. Correct.

4 Q. And apart from that document and all of
5 the statements and the actual testimony at the
6 hearing, what other evidence, if any, did your
7 hearing panel look at or consider before it made its
8 decision?

9 A. I believe there may have been police
10 reports that I may not have seen here.

11 Q. Okay. Let me show you Exhibit 11, and see
12 whether or not this is that missing piece of
13 information that you just mentioned.

14 (Deposition Exhibit 11 was marked.)

15 THE WITNESS: I know I read police
16 reports.

17 BY MR. ANGUEIRA:

18 Q. And those are not the police reports?

19 A. I can only assume they are, correct. I
20 see letters at the end here from Elisabeth to Scott,
21 you know --

22 Q. Take your time, look at the document. It
23 contains a lot of pages, but it was given to me that
24 way. That's why I gave it to you that way. And I

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1 don't mind if your counsel needs to help you at all
2 to identify whether or not that is the police
3 reports or something else.

4 MS. SULLIVAN: Okay. This is the
5 police report. This is not part of that. This is
6 not --

7 MR. ANGUEIRA: Perfect, good.

8 MS. SULLIVAN: This is not --

9 MR. ANGUEIRA: Just take the staple
10 off.

11 Let's go off the record.

12 (Discussion held off the record.)

13 BY MR. ANGUEIRA:

14 Q. Now that we're looking at Exhibit 11, is
15 it your understanding that this is the police report
16 that you had available to you?

17 A. Yes.

18 Q. Okay. All right. Now --

19 MS. SULLIVAN: Can I just clarify,
20 not to testify for him, but that -- you would have
21 had an unredacted copy of that without the lines
22 through it.

23 THE WITNESS: Good point.

24 MR. ANGUEIRA: Let's mark this

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1 document.

2 (Deposition Exhibit 12 was marked.)

3 BY MR. ANGUEIRA:

4 Q. Looking at Exhibit 12, do you know what
5 that is?

6 A. I'm not sure if --

7 MR. ANGUEIRA: Don't say anything
8 until she gets back.

9 (Discussion held off the record.)

10 THE WITNESS: I can't recall.

11 BY MR. ANGUEIRA:

12 Q. So you have no idea what that is?

13 MS. SULLIVAN: Objection. That's
14 not what he said.

15 THE WITNESS: I thought you asked
16 the question do I recall reading it or seeing it.

17 BY MR. ANGUEIRA:

18 Q. Oh, no. Do you know what it is?

19 A. It's a letter sent to Elisabeth informing
20 her of her hearing.

21 Q. Okay. And if you know, was that the
22 standard procedure that the college would follow
23 when a woman made an allegation of sexual assault
24 with respect to a Title 9 investigation? And if you

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1 don't know --

2 A. I don't know.

3 Q. Okay. Who was the Title 9 coordinator
4 during the Doherty matter?

5 A. Nicolle Hazler (phonetic) -- Nicole
6 Cestero. There's two Nicolles, and I can't --
7 Nicolle Cestero.

8 MR. ANGUEIRA: Can you mark these
9 two separate documents.

10 (Deposition Exhibit 13 was marked.)

11 BY MR. ANGUEIRA:

12 Q. Exhibit 13, do you know what that is, sir?

13 A. That's the announcement for the hearing
14 sent out to the committee.

15 (Deposition Exhibit 14 was marked.)

16 BY MR. ANGUEIRA:

17 Q. Okay. Exhibit 14, what is that?

18 A. This is Matt Scott's notification letter
19 regarding the hearing and the questions I guess.

20 Q. It says -- and this is an e-mail from
21 Matthew Scott by the way. Who is Mr. Scott?

22 A. Okay.

23 Q. Who is he?

24 A. Oh, I meant Matt.

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1 Q. Yeah, but who is he?

2 A. Chair.

3 Q. Who is Matthew Scott?

4 A. The chair of the committee.

5 Q. Okay. And he sent out this e-mail saying,
6 "I have printed copies of the questions as well as
7 statements and timelines." Now we saw some
8 timelines and we saw the statements. Do you know
9 where the printed copies of the questions are?

10 A. No idea.

11 MR. ANGUEIRA: Off the record.

12 (Discussion held off the record.)

13 BY MR. ANGUEIRA:

14 Q. Do you remember getting any printed copies
15 of the questions as this mail indicates?

16 A. I don't recall.

17 Q. Do you remember if anybody had some
18 prepared questions to ask during the hearing?

19 A. I don't recall anything formal.

20 Q. Okay. I'm actually going to play the
21 audio of the hearing during this deposition at some
22 point, and even though I'm not sure who's saying
23 what, I think it's Mr. Scott, he mentioned something
24 about, well, we had some questions prepared to ask

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1 [REDACTED] and you. But since he's not here, we'll ask
2 you some of these questions.

3 Does that bring back a memory that
4 you had some written questions ready to ask
5 Ms. Doherty --

6 A. I don't recall.

7 Q. -- and [REDACTED]

8 A. I don't recall.

9 Q. What was [REDACTED] last name by the way?

10 A. [REDACTED] -- it began with "R" I think. I
11 don't know his last name.

12 Q. If it helps to get it from your lawyer,
13 that's fine, too.

14 What was his last name?

15 MS. SULLIVAN: [REDACTED] I think.

16 BY MR. ANGUEIRA:

17 Q. Is that consistent with your memory?

18 A. I don't recall his last name.

19 Q. Fair enough.

20 A. This is a while back, too. That's one of
21 the issues here; it's four years ago.

22 Q. I understand. Who was it that asked you
23 to be on the hearing board for this matter, the
24 Doherty matter?

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1 A. Nicolle Cestero.

2 Q. Who were the -- by the way, what did you
3 call that hearing panel? Was there a name that the
4 college used for that?

5 A. A Title 9 -- I don't know what the formal
6 name was for the committee, the Title 9 hearing
7 board or committee. I don't --

8 Q. Or panel, can we use that?

9 A. Possibly. I don't know.

10 Q. But you're comfortable with that if I say
11 "the panel"?

12 A. Okay.

13 Q. So who was on the Title 9 hearing panel
14 for the Doherty matter? You, Mr. Scott, and who
15 else?

16 A. The woman in financial aid, whose name is
17 in there as well. I've forgotten her first name.

18 Q. See if it's on one of those documents.

19 A. Yeah. Nila.

20 Q. Okay. And do you know how many Title 9
21 hearings either Nila or Mr. Scott had participated
22 in before this Doherty matter?

23 A. I do not.

24 Q. Now, when the college received the

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1 complaints by Ms. Doherty about this matter and they
2 assigned certain people to investigate the matter,
3 who were the investigators that looked into this
4 matter?

5 A. Terrence O'Neill and Cindy Shiveley I
6 believe is her last name.

7 Q. And do you know what experience, if any,
8 these individuals had in investigating Title 9
9 matters before the Doherty matter?

10 A. I believe they had training, but I do not
11 specifically know what type of training they had for
12 that.

13 Q. Okay. Well, apart from the training my
14 question really is actual experience, because you
15 can have training --

16 A. Correct.

17 Q. -- and not do anything with respect to the
18 training. So my question is, if you know, did
19 either of these investigators have actual experience
20 in conducting the Title 9 investigation?

21 A. I don't know.

22 Q. Okay. Did you rely on the investigators'
23 reports, including their comments about their views
24 of credibility, in reaching your decision in the

Bruce Johnson

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1 Doherty matter?

2 A. We considered their report along with all
3 evidence and reports and the hearing itself.

4 Q. And do you know who it was that appointed
5 or selected these two individuals as the Title 9
6 investigators?

7 A. I assume Nicolle Cestero decided that, but
8 I don't know for sure.

9 Q. Okay. Can you -- since you received the
10 Title 9 training and you were asked to sit on this
11 panel, I assume, correct me if I'm wrong, that you
12 must have been familiar with the Title 9 policies
13 and procedures at the college at the time that you
14 were asked to sit on this panel, correct?

15 A. Yes.

16 Q. Describe for us the protocol, the policies
17 and procedures, for a Title 9 investigation in
18 effect at this college at the time that Ms. Doherty
19 reported her sexual assault. Take us from the very
20 beginning right up to the panel hearing and
21 decision.

22 MS. SULLIVAN: Objection.

23 THE WITNESS: I don't --

24 MS. SULLIVAN: You can answer.

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1 THE WITNESS: I do not know the
2 specific steps involved other than sort of a general
3 view of what goes on with -- you know, report,
4 investigation, hearing, but specifics I don't know.
5 BY MR. ANGUEIRA:

6 Q. Okay. Did any part of the Title 9
7 investigation by the college take into account the
8 investigation being conducted by the Springfield
9 police?

10 MS. SULLIVAN: Objection. You can
11 answer.

12 THE WITNESS: I don't know.
13 BY MR. ANGUEIRA:

14 Q. Did any of the --

15 THE WITNESS: I don't recall. I
16 don't recall.

17 BY MR. ANGUEIRA:

18 Q. Did any of the investigators at the
19 college or any of the panel members or anybody at
20 the college ever communicate with the Springfield
21 police to see if they had any additional evidence
22 that may help the college in reaching a fair and
23 reasonable decision?

24 A. I don't know.

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1 Q. Okay. Now, you did consider any
2 information that the campus police gave you,
3 correct?

4 A. Correct.

5 Q. Do you know if the campus police ever
6 communicated with the Springfield police to see what
7 evidence, if any, they had regarding this matter?

8 A. I don't recall that.

9 Q. You do understand as a person -- strike
10 that. You do understand as a professor at this
11 college and a person involved in Title 9 matters
12 that the college had a responsibility to make sure
13 that Ms. Doherty and other students at the college
14 were provided with a reasonably safe environment for
15 their learning experience, correct?

16 A. Yes.

17 Q. And you did understand that the college
18 had a responsibility to provide an environment that
19 was free and safe from things like discrimination,
20 sexual harassment, and sexual assault, correct?

21 A. Correct.

22 Q. And you understood that this college had
23 an obligation to conduct a reasonable and prompt
24 investigation of any allegations of sexual assault,

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1 correct?

2 A. Yes, correct.

3 Q. Did you also understand that once a
4 student, whether it's a woman or a man, reports a
5 sexual assault, that it was the school's
6 responsibility to conduct a reasonably prompt
7 investigation and to make sure that that student is
8 provided a safe environment?

9 A. Correct.

10 Q. And you understood that in order to
11 provide a safe environment the college may need to
12 undertake procedures to keep the abuser or the
13 attacker away from the victim, correct?

14 A. Correct.

15 Q. And how would the college go about doing
16 that?

17 MS. SULLIVAN: Objection. You can
18 answer.

19 THE WITNESS: I'm not -- I don't
20 understand -- I don't know those kinds of policies,
21 other than a general knowledge that they can throw
22 people off campus. They can keep them --
23 trespass -- they can keep them from buildings or
24 classes or sports. I understand there's different

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1 levels of trespass, but I -- with this particular
2 case I'm not aware of what they did.

3 BY MR. ANGUEIRA:

4 Q. And when you use the term "trespass," what
5 do you mean by that?

6 A. For instance, a student might be banned
7 from one particular dorm or one part -- we have two
8 campuses or one part of the campus.

9 Q. Okay. So the word trespass really is to
10 prohibit the student from going onto those --

11 A. Correct. It refers to a specific place a
12 student may not visit.

13 Q. Okay. Did you also understand that for
14 victims of sexual violence reporting a possible
15 Title 9 investigation that the school had a
16 responsibility to provide that student with
17 counseling services if she needed it?

18 MS. SULLIVAN: Objection. You can
19 answer.

20 THE WITNESS: Yes, I know that.
21 Well, all students have the ability to have
22 counseling services at any time they like.

23 BY MR. ANGUEIRA:

24 Q. What emergency counseling services did

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1 this college provide for Ms. Doherty?

2 A. I do not know.

3 Q. Did the college ever provide any
4 counseling services for Ms. Doherty?

5 A. I don't know.

6 Q. Did you understand as a Title 9 panelist
7 that students who allege that they were victims of
8 sexual violence had the right to request and the
9 college had the obligation to provide that student
10 with reasonable accommodations if they needed it in
11 terms of giving them more time for their studies and
12 their tests? Or you didn't know that?

13 MS. SULLIVAN: Objection.

14 THE WITNESS: I don't know that
15 specifically.

16 BY MR. ANGUEIRA:

17 Q. What I'm going to do, sir, is we received
18 an audio from your counsel, the school's counsel of
19 the actual hearing. There's no written
20 transcription that I have available to me, so I'm
21 actually going to play the audio. I think I may be
22 now able to recognize when you speak versus someone
23 else, but I'm going to have you identify it. And
24 it's all in time segments, so as I play it, I'll

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1 identify the segment, the stenographer is going to
2 transcribe exactly the part that I'm going to ask
3 you about, and then I'm going to ask you a question
4 about that. Okay?

5 A. Okay.

6 MS. SULLIVAN: Can we just take a
7 quick break?

8 MR. ANGUEIRA: Yes, of course.

9 (Recess taken.)

10 MR. ANGUEIRA: So what I'm going to
11 do is I'm going to play the beginning -- the whole
12 thing is 55 minutes. I'm going to try to avoid
13 playing the whole thing, but if for some reason you
14 think you need to hear what was said right before
15 the segment I'm playing, just tell me, we'll play
16 it. And then I'm going to represent the segment
17 number at the bottom.

18 (Discussion off the record.)

19 BY MR. ANGUEIRA:

20 Q. So what we did is we played the
21 introduction of the audiotape, the first 30 seconds.
22 And you recognize the gentleman speaking as
23 Mr. Scott?

24 A. Correct.

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1 Q. And basically he said that he was going to
2 give Ms. Doherty an opportunity to give her oral
3 statement, correct?

4 A. Correct.

5 Q. And do you have a recollection of
6 listening to Ms. Doherty?

7 A. Yes.

8 Q. Okay. Did she appear to be credible to
9 you? Remember you're under oath.

10 A. Can I ask you a question? When you say
11 "appear," is that --

12 Q. Well, let me ask it differently. You're
13 not supposed to ask me questions, but that tells me
14 that you don't understand my question, so I will
15 rephrase it.

16 Part of your job, as you understood
17 it, tell me if I'm wrong or right, is to weigh the
18 credibility of the witnesses that you listen to and
19 try to figure out in your mind is it likely that
20 they're telling the truth or maybe not. You
21 understood that to be part of your role, correct?

22 A. Yes.

23 Q. When you listened to Ms. Doherty's version
24 or her account of what she believes happened to her,

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1 did you believe her?

2 A. I kept an open mind and wanted to listen
3 to all the evidence involved, so I made no judgment
4 until the end of the entire hearing.

5 Q. And at the end of the entire hearing did
6 you believe Ms. Doherty's account of what happened
7 to her?

8 A. Not altogether.

9 Q. What parts of her account did you not
10 believe or credit?

11 A. I believe she went to the room. I
12 believe, you know, that the time and the
13 situation -- some of my questions circle around the
14 intimacy moment of [REDACTED] and Elisabeth, the -- when
15 the sex began, that's where I had my questions.

16 Q. When you say, "that's where I had my
17 questions," you mean you had your doubts about her
18 credibility?

19 A. Not doubts. I just was questioning the
20 circumstances of her words and her actions of the
21 night, together with all the witness -- you know,
22 with all the circumstances of the evening. So I had
23 questions about whether she was telling the complete
24 truth.

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1 Q. Okay. And what part of her account or
2 story did you not believe? Did you think that she
3 was either lying or saying something inconsistent
4 with what other witnesses said?

5 A. I questioned whether she -- how to put
6 this? I questioned her story of his movements with
7 her, how he pinned her down, how -- whether people
8 could have heard what happened to her sort of in the
9 room, and whether or not the knocking on the door
10 had an influence on her perception of what happened.

11 Q. Okay. Let's take those -- have you
12 finished your answer?

13 A. Yes.

14 Q. Okay. And those are the areas of her
15 account that you felt were not credible, correct?

16 A. I questioned.

17 Q. Well, my question to you again, for the
18 third time is, what parts of her story or her
19 testimony or account did you believe were not
20 credible, that you simply did not believe, if any?

21 A. Yes. I questioned how he was able to do
22 what he did in terms of pinning her down, removing
23 his clothing, placing a condom on himself. I
24 questioned why there was nothing heard in the room

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1 by others who were in close proximity. I know she
2 said that she said no, and I believe that. I mean,
3 I'm sorry, I knew she said she said no; I'm just not
4 sure when that took place. I wasn't sure if it
5 was the -- it seemed to me that it came after the
6 fact that the -- there were several girls banging on
7 the door, I think she said violently, I don't know,
8 five or six or something.

9 Q. Have you finished?

10 A. Did I answer the three parts of that? I
11 had three reasons. Yes.

12 Q. Okay. If there's anything else that comes
13 to mind as you listen to the tape and as I ask you
14 questions, please let us know.

15 What you told us is that you did not
16 believe Ms. Doherty's account with respect to [REDACTED]
17 was able to do what he did, specifically to pin her
18 down, to take off her clothes, and put on a condom.
19 Why didn't you believe that account? What is it
20 about it that you felt was not credible or not
21 possible? Take them one at a time.

22 A. Yeah. I'm trying to put myself back in
23 this moment. I questioned how that happened without
24 there being more of a struggle or something that had

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1 a little more sound to it. I thought there would
2 have been people who came in -- were in the room,
3 walked through I think to the bathroom at one point,
4 heard nothing and said nothing. So I questioned how
5 that all took place.

6 Q. Okay. Well, I'm not sure that answers my
7 question. Let me try to ask it a different way.

8 A. Okay.

9 Q. What was Ms. Doherty's size?

10 A. She is -- you mean weight wise or --

11 Q. Height and approximate size as you looked
12 at her and saw her.

13 A. Yeah. She is a good-sized girl. She was
14 an athlete I believe. I don't know her dimensions,
15 but she was -- you know, I can't tell weight but at
16 least 160, 170, in that area. She was a slightly
17 overweight woman who is fairly strong appearing in
18 size.

19 Q. Okay. What was her height?

20 A. I can't say specifically. I'd say in the
21 five five to the five seven range maybe, somewhere
22 in there.

23 Q. What were [REDACTED] dimensions or size in
24 terms of his height and his weight?

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1 A. I believe from the testimony -- from the
2 hearing, he was a football player. I think they
3 said something like 200 pounds, 210 pounds if I
4 recall. I'm not remembering all the details from
5 that, but he was a football player.

6 Q. Okay. What was his height?

7 A. I don't recall specifically --

8 Q. Okay.

9 A. -- but I'm guessing like six to six two.

10 Q. What position did he play in football?

11 A. I don't know.

12 Q. Did you ever hear any evidence or look at
13 any testimony that he weighed about 250 pounds and
14 was a linebacker for the football team?

15 A. I don't recall that.

16 Q. Did you take into consideration the
17 difference in sizes between these individuals?

18 A. Yes.

19 Q. So you basically thought in your mind,
20 well, if this woman really didn't want to have sex,
21 then she should have been able to struggle more or
22 to scream louder so that somebody would have at
23 least heard her in the room?

24 MS. SULLIVAN: Objection.

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1 BY MR. ANGUEIRA:

2 Q. Is that essentially what you were
3 thinking?

4 A. No, not at all. No.

5 Q. Okay. Which part of that is wrong?

6 A. That she didn't want to have sex.

7 Q. So you think she did want to have sex?

8 A. I think that she did want to have sex,
9 correct.

10 Q. Okay. So you thought -- by the way, did
11 you form the opinion that you thought she wanted to
12 have sex before you heard her testimony from the
13 evidence that you had seen and gathered through the
14 investigators?

15 A. No. No, I wanted to hear everything
16 beforehand.

17 Q. So after you heard her, your -- part of
18 your thought process was, okay, well, this woman
19 came to [REDACTED] room voluntarily, correct?

20 A. Correct.

21 Q. And that she came there understanding that
22 there might be the possibility of a sexual encounter
23 or some intimacy, correct?

24 A. I have no idea. I have no way to know

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1 that.

2 Q. Okay. And then when she got there, that
3 she was a willing participant in some level of
4 intimacy; is that what you were thinking?

5 A. Correct.

6 Q. And then at some point in time did you
7 ever believe that that level of intimacy in her mind
8 changed, that she became an unwilling participant,
9 or did you always believe that she was always a
10 willing participant?

11 A. I thought Elisabeth was a willing
12 participant until the sounds on the door occurred.

13 Q. Okay. And you'll hear evidence about
14 that. My understanding is, that at some point she
15 testified that she heard people knocking on the
16 door, that she thought it was the voices of several
17 women and that she tried to hide. [REDACTED] went to
18 the door, and somehow the people left. And then
19 that's when she was able to run out of the room and
20 go back to her room.

21 A. Correct.

22 Q. Is that consistent with your memory?

23 A. Yes.

24 Q. So you think that her level of willingness

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1 changed once those women knocked on [REDACTED] door?

2 A. Correct.

3 Q. Well, did they continue to have sex after
4 that?

5 A. They did not as far as I can recall.

6 Q. Okay. Do you recall the evidence
7 suggesting or indicating that [REDACTED] attempted to
8 continue to have sex but that at that point she said
9 no again?

10 A. After the --

11 Q. The girls knocking --

12 A. -- girls knocking on the door?

13 Q. Yes.

14 A. I -- what I recall is that she was running
15 around getting dressed as he was dealing with the
16 girls at the door. I don't remember exactly, but I
17 thought that's what's happening. I don't remember
18 those two attempting to have sex after the girls
19 knocked on the door.

20 Q. Okay. And did you think that at that
21 moment when he left her to address the people at the
22 door, that Ms. Doherty should have been able to
23 scream for help or run away at that point in time?

24 MS. SULLIVAN: Objection.

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1 THE WITNESS: No. I didn't think
2 she was obligated to do that.

3 BY MR. ANGUEIRA:

4 Q. So at what point in your mind did you
5 think that she became an unwilling participant in
6 the intimacy?

7 MS. SULLIVAN: Objection. It was
8 already asked and answered.

9 MR. ANGUEIRA: Well, he hasn't
10 answered it to my satisfaction.

11 MS. SULLIVAN: He --

12 MR. ANGUEIRA: Just object.

13 MS. SULLIVAN: Yeah.

14 BY MR. ANGUEIRA:

15 Q. You told us that you believed initially
16 she was a willing participant for intimacy, and
17 something changed, and you related the timeframe to
18 that change when there was a knock on the door. So
19 what changed after the knock on the door?

20 A. From the best of my recollection is that
21 the knock on the door and the commotion that went
22 with it and the sound of the knocking, the number of
23 women, put fear in Elisabeth and frightened her.

24 Q. Okay. And as a result of that she no

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1 longer wanted to continue to have voluntary sex with
2 this man. Is that what you thought?

3 A. Correct.

4 Q. Okay. And she testified, did she not,
5 that she had some fear or some concern that she
6 might get beat up by those girls whose voices she
7 heard? Do you remember that?

8 A. I believe so, correct.

9 Q. And was that part of the evidence that you
10 considered in reaching the conclusion that this
11 woman wanted to have sex first, and after she heard
12 the girls at the door decided in her mind that she
13 did not want to have more sex with [REDACTED] Is that
14 what you were thinking?

15 A. I don't remember hearing that specifically
16 from her, but I remember thinking that, correct,
17 that, as I said before, it was the commotion and the
18 knocking on the door that stopped everything.

19 Q. And then the last point that you made
20 was -- my notes were, why such a commotion would not
21 have been heard by others in the room?

22 A. Correct.

23 Q. Okay. Who -- from the evidence that you
24 heard, who were the other people actually in the

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1 room during the time period that Ms. Doherty says
2 she was being raped?

3 A. I believe there was a roommate who was --
4 and perhaps his girlfriend. I'm not sure of this
5 but to the best that I can recall.

6 Q. Sure.

7 A. Oh, that roommate at one point went to the
8 bathroom and turned off the light -- he was asked to
9 turn off the light I believe, perhaps by [REDACTED] if I
10 recall. I can't recall if there was another person
11 in the room at that time, but that was --

12 Q. But that was part your thinking process,
13 that if Ms. Doherty was saying no, as she testified
14 that she said repeatedly and that she did not want
15 to have sex with this man, then those individuals in
16 that room should have been able to hear something to
17 indicate that something was out of sorts in that
18 room? Is that fair to sort of summarize your
19 thinking?

20 A. It was part of the entire -- that was part
21 of the evidence, correct, that that didn't happen,
22 that nothing was heard, and the commotion went
23 without people hearing it.

24 Q. All right. So, in other words, if she had

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1 screamed louder, maybe these people would have heard
2 her, correct? That was your thought process?

3 MS. SULLIVAN: Objection. You can
4 answer.

5 THE WITNESS: I don't think she's
6 obligated to scream loud, but I think had she
7 screamed, she may have been heard.

8 BY MR. ANGUEIRA:

9 Q. Okay. So did you know anything about a
10 victim's thought process while she is being raped?
11 Do you know anything about that?

12 A. Personally no.

13 Q. Do you know anything about how a woman who
14 is being physically held down by a person almost
15 twice her size and much stronger than her and being
16 raped, whether or not those people are even able to
17 communicate during the rape itself?

18 A. I didn't have the same picture of the
19 situation.

20 Q. No, I know you didn't. I'm asking whether
21 or not you understood or knew from any source of
22 information that women while being raped can act in
23 all different ways, screaming, yelling, struggling
24 violently, or being completely still and not saying

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1 or doing anything because they're so traumatized?

2 Did you know that or you did not?

3 A. I think that would be common knowledge
4 that a person would know, that a person being raped
5 can react in a whole range of emotions, from saying
6 nothing to screaming as loud as she can or he.

7 Q. It was certainly part of your knowledge,
8 correct?

9 A. Certainly.

10 MR. ANGUEIRA: So now what I'm going
11 to do, I'm going to skip all of Ms. Doherty's
12 testimony, unless you want to hear it again, and go
13 to another segment which -- I'll play the first 15
14 seconds so you have a sense of where we are.

15 THE WITNESS: Okay.

16 (Discussion held off the record.)

17 MR. ANGUEIRA: So at this point she
18 has testified -- given her narrative, and then some
19 of the individuals on the board are sort of asking
20 her questions.

21 Now, I do want to have a
22 transcription from this point for the next several
23 seconds, and I'll tell you when to start. If you
24 need me to replay this, I will.

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1 "MR. JOHNSON: The screaming issue,
2 no one heard that screaming in
3 the room?"

4 BY MR. ANGUEIRA:

5 Q. Was that you asking that question?

6 A. Correct.

7 "MS. DOHERTY: The only time I
8 raised my voice really loud was when I
9 screamed stop, and that's when he let me
10 go.

11 "MR. JOHNSON: But the noes
12 beforehand were just sort of
13 conversational noes?"

14 BY MR. ANGUEIRA:

15 Q. What did you mean by asking her if the
16 noes were conversational noes?

17 A. I meant that they were not loud.

18 Q. In other words, she wasn't screaming or
19 talking loud enough, that she was just having a
20 regular, normal conversation with this man?

21 A. Well, no. Can you ask the question again?

22 Q. What did you mean by asking this rape
23 victim whether or not her noes, that she had just
24 testified that she repeatedly said no while being

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1 raped, were conversational noes?

2 A. I was trying to find out the degree to
3 which she said no.

4 Q. Why did you use the word "conversational"?

5 A. I can't recall.

6 Q. What type of an adjective would you use if
7 a woman was saying no and meant no while she was
8 being raped?

9 A. What kind of a -- can you repeat the
10 question?

11 Q. Adjective would you use? Is that -- as
12 opposed to a conversational no, what kind of a no is
13 that?

14 MS. SULLIVAN: Objection.

15 MR. ANGUEIRA: Let him answer,
16 please.

17 THE WITNESS: Can you clarify the
18 question one more time?

19 BY MR. ANGUEIRA:

20 Q. Sure. You asked this rape victim whether
21 or not her noes were a conversational no. I'm
22 asking you if you believed her that she was being
23 raped, how would you describe that no? What term
24 would you have used?

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1 A. I didn't believe she was being raped.

2 MR. ANGUEIRA: Okay. Let's
3 continue.

4 "MS. DOHERTY: It was kind of more
5 like stop, like kind of like -- they
6 weren't screams.

7 "MR. JOHNSON: Why was it not more
8 emphatic? Why did you say stop as
9 opposed to scream bloody murder stop
10 when" --

11 BY MR. ANGUEIRA:

12 Q. Why did you ask her that question?

13 A. I was trying to determine how people in
14 the room did not hear any struggle.

15 Q. So you were asking her why she didn't
16 scream bloody murder scream?

17 A. As I said, a more emphatic no.

18 Q. Is that because you believe that a true
19 rape victim should only be screaming more
20 emphatically as opposed to someone silently telling
21 their rapist no, no, stop?

22 A. Not at all. I was trying to make sense of
23 her -- how she was speaking to him and what -- and
24 the -- I was trying to make sense of whether or not

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1 this really took place. I didn't -- I could not
2 make sense of it.

3 Q. Did you think that there's some women that
4 say no and they don't mean no, that that means yes,
5 that they want to be raped?

6 A. Not at all.

7 Q. Did you think that when this woman was
8 saying no, no, that she didn't mean no, no, and that
9 it meant that she wanted to be -- to have sex with
10 this man?

11 A. I don't even know what she said.

12 Q. Well, if you believe that she said no
13 repeatedly, did you understand that women have the
14 right to say no?

15 A. I didn't say I believe she said no
16 repeatedly, and I do understand that a woman has the
17 right to say no.

18 Q. So had you believed Ms. Doherty, that she
19 was raped and told this man no repeatedly that she
20 didn't want to have sex, you should have decided to
21 discipline [REDACTED] correct?

22 A. Say it again, please.

23 Q. Had you believed Ms. Doherty's account,
24 that she was raped by this student [REDACTED] then your

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1 decision should have been to discipline [REDACTED]
2 correct?

3 A. Correct.

4 "MR. JOHNSON: -- because that's one
5 of the questions --

6 "MS. DOHERTY: I guess I was
7 embarrassed."

8 MR. ANGUEIRA: I'm going to
9 reference the number we just heard so that everybody
10 knows exactly -- we're at 8:32 right now. When I
11 stop it, I'll tell you when.

12 "MS. DOHERTY: It's kind of
13 embarrassing.

14 "MR. JOHNSON: But you were telling
15 him no at the time from --

16 "MS. DOHERTY: Yes. And he
17 acknowledged my noes. He said like,
18 stop, you know you want it, like don't
19 say no, kind of like you're just making
20 up that you don't want it. But I was
21 saying please stop the entire time. And
22 at one point I even started crying. But
23 it wasn't like I was kidding around like
24 no, like I was --

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1 "MR. JOHNSON: And a guy who's maybe
2 had a drink or two or who is distracted
3 may think that's kind of a different
4 message you're sending, but you think it
5 was a clear message that you said no at
6 that point? Because that's a big moment.

7 "MS. DOHERTY: I was trying to grab
8 his hands off. I was clearly saying,
9 please, stop, like don't do this to me.
10 Like from the get-go I was saying no."

11 BY MR. ANGUEIRA:

12 Q. So you asked this rape victim that a guy
13 who might have had a drink or two may have heard a
14 different type of a message, even though this woman
15 is testifying that she kept saying no, no, please,
16 no, please stop. What did you mean by that
17 question?

18 A. I wanted to be sure. I'm not saying a man
19 who drinks should rape a person and has a right to,
20 but I wanted to make sure of what happened here.

21 Q. But what is -- I want to understand the
22 reason why you asked that question. Why did you
23 phrase it that a guy that has a drink or two may --
24 does that mean to you that he may have heard a

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1 different message and that changes the
2 circumstances?

3 A. Well, he was reported to have been drunk
4 earlier, which has no -- is not involved in this
5 case. If he's drunk that means nothing when it
6 comes to a rape case certainly, but I was just
7 trying to make sense from her whether he understood
8 what she meant by that, whether she was emphatic
9 about it. I was just trying to get to, you know,
10 the full truth of that.

11 Q. Why not ask him? Why are you asking the
12 rape victim what he would have understood had he
13 been drinking or not? Tell me what the basis is to
14 ask this witness that question.

15 A. Repeat that again, please.

16 Q. Were you thinking in your mind that, okay,
17 well, maybe she said no, but it wasn't emphatic
18 enough, and maybe because he was drunk he didn't
19 truly understand that she didn't want to have sex?
20 Is that kind of your thought process?

21 A. No.

22 MR. ANGUEIRA: We're now at 9:15 on
23 the tape.

24 "MS. DOHERTY: So I -- personally I

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1 think it was very clear. I wouldn't be
2 doing that.

3 "MR. JOHNSON: Yeah.

4 "MS. LENNA: Was there any T.V. or
5 light on or anything in that" --

6 MR. ANGUEIRA: Okay. I'm stopping
7 it at 9:24, and now I'm going to go to 13:57. And
8 I'll actually begin at 13:34 just to get the context
9 of the next series of questions and answers.

10 "MS. DOHERTY: So he like basically
11 picked up my legs and just ripped them
12 off.

13 "MR. JOHNSON: Because that's a hard
14 act to do to someone else I think.

15 "MS. DOHERTY: Yeah."

16 BY MR. ANGUEIRA:

17 Q. Now, there Ms. Doherty is describing how
18 this football player was able to manipulate or
19 maneuver her body during the act, and that's one of
20 the issues you raised before, that you were
21 questioning, right?

22 A. Correct.

23 Q. What's your memory of what she says
24 happened about that, with respect to how he was able

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1 to take her clothes off and put on a condom and have
2 sex with her?

3 A. From what I recall, I was wondering how he
4 could pin her down, remove her clothes, and pull her
5 pants off and put on a condom.

6 Q. Okay.

7 A. Yeah, I wondered about that.

8 Q. If you're a six foot two guy weighing
9 about 250, football player, and you're straddling a
10 woman that's half your size --

11 MS. SULLIVAN: Objection.

12 BY MR. ANGUEIRA:

13 Q. -- and you're straddling her above her
14 waist with all of your -- not just body weight but
15 strength, you don't think it's possible to take her
16 pants off?

17 MS. SULLIVAN: Objection. You can
18 answer.

19 THE WITNESS: First, she was a bit
20 larger than you just presented I believe, and I have
21 no idea.

22 BY MR. ANGUEIRA:

23 Q. Well, what type of pants did she have on?

24 A. I don't know.

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1 Q. Well, were they pants that had a belt?
2 Something that had to be removed? Were they shorts?
3 Were they sweatpants? What kind of pants?

4 A. I don't recall.

5 Q. Well, then how do you know that he wasn't
6 able to do that? What if they were just gym shorts
7 that you can yank off with one hand while holding
8 the victim down with another hand?

9 A. With her pants, not shorts.

10 Q. Yeah.

11 A. And I was just trying to make sense of how
12 that could happen. I don't know.

13 Q. So you never knew what type of pants she
14 had on, correct?

15 A. Correct.

16 Q. But you concluded that, based on the
17 testimony you heard, that it was incredible to you
18 that a man like [REDACTED] could do this to Ms. Doherty:
19 Get her pants off, keep everything quiet, get a
20 condom on, and then have sex with her unless she
21 wanted to, right?

22 MS. SULLIVAN: Objection.

23 THE WITNESS: I didn't --

24 MS. SULLIVAN: You can answer.

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1 THE WITNESS: I didn't say that,
2 that she -- my point is that she -- I was trying to
3 make sense of how this can happen quietly in a room
4 and -- yeah.

5 BY MR. ANGUEIRA:

6 Q. Do you know if Ms. Doherty was in shock
7 during this process at all?

8 MS. SULLIVAN: Objection.

9 THE WITNESS: I don't know. No, I
10 have no way of knowing.

11 BY MR. ANGUEIRA:

12 Q. Did you ever ask her or did anybody in the
13 panel ask her what her state of mind was during this
14 period of time?

15 A. I don't recall specifically.

16 MR. ANGUEIRA: We're picking up at
17 13:43.

18 "MS. DOHERTY: Yeah. I honestly did
19 not think someone was capable of moving
20 me how he moved me. I mean I'm not a
21 little girl. Like I always thought that
22 no one could throw me around like that.
23 And that's -- that was one of the
24 scariest things for me actually.

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1 "MR. JOHNSON: I mean was the sex
2 consensual, and then you realized you
3 didn't -- I mean there's very different
4 degrees here, but was it ever consensual,
5 and then you decided because of
6 circumstances that you didn't want it?
7 Because that's just as -- you have every
8 right to say no at any time. So you're
9 saying --

10 "MS. DOHERTY: No, it never was
11 consensual.

12 "MR. JOHNSON: Just the kissing --
13 like what was actually consensual?

14 "MS. DOHERTY: Nothing.

15 "MR. JOHNSON: Because you mentioned
16 he was kissing your neck.

17 "MS. DOHERTY: I said stop. I said
18 stop immediately. Immediately I said
19 please don't do this. Your best friend's
20 in love with me, and I have a boyfriend.
21 Please stop. Everything -- Nothing was
22 consensual, nothing.

23 "MR. JOHNSON: What kept you -- when
24 he was kissing your neck on that couch --

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1 "MS. DOHERTY: He grabbed me. He
2 grabbed me.

3 "MR. JOHNSON: Okay. And carried
4 you to the --

5 "MS. DOHERTY: Yeah. I didn't -- I
6 couldn't -- I literally went like this,
7 and he grabbed me immediately and put me
8 on the bed. From then I wasn't in
9 control. He had basically control over
10 me.

11 "MR. JOHNSON: How big is he? I
12 don't remember seeing that.

13 "MS. DOHERTY: 250 maybe. He's like
14 a big kid.

15 "MR. JOHNSON: Is there any details
16 of him on this? I don't think I've seen
17 anything.

18 "MS. DOHERTY: He's a football
19 player, so you can look at the roster if
20 you want. He's a linebacker. He's like
21 a big kid."

22 MR. ANGUEIRA: I'm stopping at

23 15:00.

24 BY MR. ANGUEIRA:

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1 Q. Now, you heard that exchange, correct?

2 A. Yes.

3 Q. She told you that he was tossing her
4 around, and she was shocked at his ability to toss
5 her around. Did you believe that part of her story
6 or not?

7 A. I had questions about that.

8 Q. All right. You heard her testify that she
9 thought he weighed about 250. Remember I asked you
10 about that weight?

11 A. Correct.

12 Q. Does that refresh your memory or not?

13 A. Until I just heard it. I don't recall
14 that until I just heard that.

15 Q. Did you ever look at this man's physical
16 dimensions in any record? The football records?
17 The school records? A picture? Anything at all?

18 A. No. All that was given was a description
19 of [REDACTED]

20 Q. Did you ever see [REDACTED]

21 A. No.

22 Q. Did you ever speak to [REDACTED]

23 A. No. He did not come to visit for the
24 hearing.

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1 Q. So when you made your decision or when you
2 were thinking in your mind that it was physically
3 impossible for this man to do what he did to this
4 woman, or you simply didn't believe it because of
5 the size of the woman compared to the man, you had
6 no information about his physical strength and no
7 information about his physical size other than what
8 she told you, correct?

9 MS. SULLIVAN: Objection. You can
10 answer.

11 THE WITNESS: Well, I believed at
12 that point it was consensual.

13 BY MR. ANGUEIRA:

14 Q. All right.

15 A. Until the knocking at the door, as I said
16 before.

17 MR. ANGUEIRA: I'm going to skip to
18 16:15. Actually I'll begin at 16:00 to get the
19 context.

20 "MR. JOHNSON: What made you text
21 him after the incident? You left and I
22 think 20 minutes later on the timeline or
23 maybe 20 or 30 -- I think you went --
24 before you went to the police, you texted

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1 him. What made you text him?

2 "MS. DOHERTY: I was angry. I
3 wanted to let him know what he had done.
4 That's basically my reasoning. I wanted
5 to let him know that like what he did
6 wasn't okay.

7 "MR. JOHNSON: Yeah."

8 BY MR. ANGUEIRA:

9 Q. What was the rationale behind that
10 question? That was your question by the way?

11 A. It was.

12 Q. Okay.

13 A. I was trying to put together a picture of
14 this whole scenario. And I thought it would be good
15 to ask why she was texting him afterwards.

16 Q. And the texts that you're referring to are
17 the texts that we previously identified as Exhibits
18 3 and 4, correct?

19 A. Correct.

20 Q. Okay. Did you think it was unusual for a
21 rape victim to be texting her rapist like this?

22 MS. SULLIVAN: Objection.

23 THE WITNESS: No.

24 MS. SULLIVAN: You can answer.

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1 THE WITNESS: No. I didn't know
2 either way. I just was curious about it. I wasn't
3 passing judgment or preconceived ideas on this. I
4 just wanted to get more information.

5 BY MR. ANGUEIRA:

6 Q. You also understood from the evidence
7 that -- which was corroborated by witnesses by the
8 way, that when Ms. Doherty was able to leave
9 [REDACTED] room that she immediately went back to her
10 room and reported to her roommate that she had been
11 raped, correct?

12 A. Correct.

13 Q. Did you believe that part of her account?

14 A. No. I believe she told them, but I don't
15 believe a rape happened.

16 Q. So you formed the opinion in your mind
17 that this woman, after leaving [REDACTED] room, went
18 back to her room, was crying hysterically, according
19 to the witnesses, and told them that [REDACTED] just
20 raped me, and you thought she was making that whole
21 scenario up?

22 A. No. I thought she was extremely upset and
23 scared by all that happened, most particularly with
24 the people who were banging on the door who I think

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1 she felt very extremely threatened by. So I have no
2 reason to question that she was -- ran out upset and
3 afraid. I just -- like I said before, I don't --
4 the reasons for that I didn't believe.

5 Q. So you thought that -- so tell me what
6 your thought process was as to why she was crying
7 and why she told her roommates that she had been
8 raped.

9 A. We have no way of knowing what happened
10 that night. Two people know. All I was trying to
11 do was to make sense of all that happened, and I
12 think a lot of my feeling, as well as the other
13 committee members, was that she was -- what was
14 upsetting -- that we thought it was a consensual act
15 that was made -- upset her when she -- when the door
16 got banged on.

17 So I have no way of knowing what was
18 behind her thinking when she ran down the hall and
19 cried hysterically. I don't know what caused that.

20 Q. You didn't form any opinion yourself about
21 what caused her to say that she had been raped and
22 why she was crying hysterically?

23 A. I don't know why she said that.

24 Q. Did you even consider the fact that maybe

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1 she had been traumatized and was actually reporting
2 exactly what happened? Did you think that?

3 A. Well, I considered all situations. I
4 considered that along with the fact that she was
5 completely frightened by what happened with the
6 girls prior to that but -- it was all part of the
7 pieces of evidence that we put together for this.

8 Q. So did part of your thought process
9 include, well, maybe she's reporting a rape and
10 crying rape because if these girls come after her to
11 beat her up, she could always say that, well, he
12 raped me; I didn't really just want to have sex with
13 [REDACTED] to voluntarily have sex? Is that part of
14 your thought process?

15 A. Part of our thinking was that she did not
16 want to be thought of as someone who was having sex
17 with [REDACTED] and these girls would maybe get back at
18 her somehow.

19 Q. Okay. Were these other girls students at
20 the college?

21 A. Yes.

22 Q. Okay. Did your investigation identify
23 these other women?

24 A. It did.

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1 Q. Okay. And since you believed in your mind
2 that this woman, Ms. Doherty, was in fear for -- of
3 harm by these other students, what if anything did
4 you do to make sure that these other students did
5 not harm Ms. Doherty as part of your investigation?
6 Do you understand my question?

7 A. I wouldn't be part of that process in
8 terms of trespassing these women from Ms. Doherty.

9 Q. Well, who would? You're part of the
10 Title 9 procedure.

11 MS. SULLIVAN: Objection.

12 BY MR. ANGUEIRA:

13 Q. Did you consider -- since you just
14 testified that Ms. Doherty was in fear of being
15 harmed by these other students, what if anything
16 should be done about that issue?

17 MS. SULLIVAN: Objection.

18 THE WITNESS: I don't recall.

19 BY MR. ANGUEIRA:

20 Q. You don't recall whether anybody did
21 anything about that?

22 A. No.

23 Q. Did you do anything about that?

24 A. No.

Bruce Johnson

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1 Q. Were these women interviewed and
2 statements taken from them?

3 A. That I don't recall.

4 Q. Were any of the statements that we
5 identified and marked and identified by name by your
6 counsel, were those any of the women that knocked on
7 the door?

8 A. I don't know the women who knocked on the
9 door. I don't know who they were.

10 Q. Well, you told us that they -- that you
11 knew the identity of these women. My question to
12 you is --

13 A. I didn't mean that. I don't know who they
14 were. I just knew that they were -- she imagined
15 five or six girls out there. I do not know who they
16 are.

17 Q. As part of the Title 9 investigation did
18 anybody determine the identity of those women who
19 knocked on [REDACTED] door?

20 MS. SULLIVAN: Objection.

21 THE WITNESS: I personally don't
22 know.

23 MS. SULLIVAN: Can I -- can we go
24 off the record for a second?

Bruce Johnson

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1 MR. ANGUEIRA: Off the record, sure.

2 (Discussion held off the record.)

3 BY MR. ANGUEIRA:

4 Q. A suggestion, a good one made by your
5 counsel, is that maybe if you have time to read the
6 investigative report, that that might help you
7 remember some of the answers to some of these
8 questions. So at any point in time during this
9 deposition, if you think that looking at a document
10 would help you to answer the question, just grab the
11 document. And all we're asking is for you to tell
12 us what is the document you're looking at.

13 So there's a document in front of
14 you now, and what is that? Whose statement is that?

15 A. Well, they're redacted, so I'm not sure.

16 Q. Okay. What exhibit number is it?

17 A. Nine.

18 Q. Okay. And we identified who that person
19 was before so -- off the record.

20 (Discussion held off the record.)

21 BY MR. ANGUEIRA:

22 Q. Is there anything else you want to look
23 at?

24 A. Can you ask the question first?

Bruce Johnson

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1 MR. ANGUEIRA: Let's go off the
2 record.

3 (Discussion held off the record.)

4 BY MR. ANGUEIRA:

5 Q. Sir, we had a pending question and then at
6 your counsel's suggestion, which I mentioned was a
7 good one, we've now looked at Exhibit 9, which we
8 know is [REDACTED] statement, but we also looked
9 at the investigation report which is Exhibit 10.
10 And your counsel was able to identify that even
11 though the individual pages don't have page numbers,
12 there is a page where the statement begins, "She was
13 at a party downtown and was getting texts from
14 [REDACTED] --

15 A. Correct.

16 Q. -- "beginning around 1:00 a.m. to come
17 over." And then it continues all the way down. And
18 you've had a chance to read that part of [REDACTED]
19 [REDACTED] statement as well?

20 A. Yes.

21 Q. Okay. So do you know whether or not the
22 investigators ever spoke to the friend that she
23 identifies just as a friend as the person who
24 accompanied her to go to [REDACTED] room?

Bruce Johnson

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1 A. I don't recall.

2 Q. And was it your understanding when you --
3 well, strike that.

4 Did she ever testify at the hearing,
5 this [REDACTED] [REDACTED]

6 A. No.

7 Q. Okay. Was it your understanding at the
8 time of the hearing that [REDACTED] [REDACTED] was [REDACTED]
9 girlfriend or allegedly one of his girlfriends?

10 A. I didn't know that at the time, no. I
11 knew he had a girlfriend, and I know someone visited
12 him later. [REDACTED] (phonetic) her name was.

13 Q. And that's another woman?

14 A. Correct. She was after everything --
15 after Elisabeth. I think she came over an hour or
16 two after that even. That's in the report.

17 Q. Okay. So did you take into consideration
18 this statement in terms of making your final
19 decision in the Doherty matter?

20 A. Yes.

21 MR. ANGUEIRA: Now I'm going to go
22 to the audio tape and begin at 19:00. Actually
23 18:51 just to get the context.

24 "MR. SCOTT: So he's not trying to

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1 say that he was not coherent. Again not
2 that that -- right. So he's just saying
3 it had nothing to do with the alcohol.
4 He actually said he thought that you
5 wanted it. Okay. And then after that
6 you said you are in trouble. Do you know
7 like what was going on at that point?

8 "MS. DOHERTY: I was scared that he
9 was going to come try and find me or
10 something.

11 "MR. SCOTT: Some retaliation or
12 something?

13 "MS. DOHERTY: Yeah. Or try and
14 talk to me.

15 "MR. SCOTT: Okay."

16 BY MR. ANGUEIRA:

17 Q. That man's voice at that segment that I
18 identified, was that Mr. Scott?

19 A. Correct.

20 Q. And I think I asked you this, who were the
21 panel members? You, Scott, and --

22 A. Matt -- me, Matt Scott, and I keep
23 forgetting her name, Nina or --

24 MS. SULLIVAN: Nila. It's on there.

Bruce Johnson

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1 BY MR. ANGUEIRA:

2 Q. All right. Just the three of you then?

3 A. Yes.

4 MR. ANGUEIRA: I'm going to put the
5 tape back on now.

6 "MR. JOHNSON: Drinking was not an
7 issue. That's how I read this. Do you
8 think he was drunk or had been drinking a
9 little bit?

10 "MS. DOHERTY: He was drunk."

11 THE WITNESS: I didn't get that.

12 MR. ANGUEIRA: I'm going to play it
13 again. I think it said something like a lot of time
14 passed. But I'll bring this closer to you so you
15 can hear it and the stenographer.

16 "MR. JOHNSON: Drinking was not an
17 issue. Is that -- that's how I read
18 this. Do you think he was drunk or just
19 had been drinking a little bit?

20 "MS. DOHERTY: No, I think he was
21 drunk.

22 "MR. JOHNSON: He was. Okay. So a
23 lot of time passed since this -- well, a
24 couple hours.

Bruce Johnson

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1 BY MR. ANGUEIRA:

2 Q. Were you able to hear what you said there?

3 A. A lot of time passed, I think a couple
4 hours maybe.

5 "MS. DOHERTY: Yeah. He was -- when
6 he was in my room, he was like falling
7 asleep on my couch like -- so he was
8 visibly drink -- like drunk to my
9 opinion. I mean --

10 "MR. JOHNSON: You've been social
11 friends since freshman year? Flirty
12 friends? I mean there's different kinds
13 of friendships. You can be flirty
14 friends and totally innocent with
15 someone.

16 "MS. DOHERTY: No, I" --

17 BY MR. ANGUEIRA:

18 Q. Okay. What's a flirty friend?

19 A. I believe that somebody testified that
20 they had flirted in the past. That's where I got
21 that. I was trying to find out her relationship --
22 I was trying to get more pieces to the puzzle here.
23 I was trying to make sense of the nature of their
24 friendship. But I believe that the word flirty was

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1 used by a witness who described their relationship.

2 Q. Did you see or hear any evidence from any
3 source suggesting that Ms. Doherty was promiscuous
4 or had sex with a lot of people?

5 A. Not at all, no.

6 Q. Did you hear or see any evidence that
7 [REDACTED] was promiscuous and had sex with a lot of
8 people?

9 A. I'd like to backtrack.

10 Q. Of course.

11 A. You were asking about Elisabeth. This is
12 going way back. I think somewhere in the documents
13 somebody, maybe [REDACTED] mentioned that she'd had a
14 few boyfriends, but I think it was a statement in
15 passing. I remember reading that at some point. It
16 had no weight with me, but I remember that was
17 stated somewhere. I don't know where.

18 Q. I could show it to you in a little bit.
19 There is a document here, which I believe is
20 [REDACTED] statement, where he claims that Ms. Doherty
21 is promiscuous and had a lot of boyfriends. Is that
22 consistent with your memory?

23 A. No. No, it really isn't.

24 Q. Okay.

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1 A. I'd heard that he was promiscuous, but I
2 didn't know that she was at all, to be honest with
3 you.

4 Q. Of course if you're a rapist and your
5 victim is accusing you of rape, then one of the ways
6 to sort of discredit her account is to say that
7 she's promiscuous or a slut, right?

8 A. Absolutely.

9 Q. Did you think he was doing that?

10 A. No.

11 Q. The --

12 A. Actually I don't know. I should say I
13 don't know what he was thinking.

14 Q. The woman [REDACTED] that came to the door, did
15 you ever get information about the nature of her
16 relationship with [REDACTED]

17 A. I don't recall.

18 Q. So you didn't know whether or not they
19 were in an intimate relationship at the time that
20 she gave the statement to the investigators?

21 A. I knew that one of the females who was
22 banging on the door had been involved with [REDACTED]
23 That was the extent of my knowledge.

24 Q. Okay. Well, you know from the statement

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1 you just looked at that she's one of those two
2 females, correct?

3 A. Correct.

4 Q. Because she said she's the one that came
5 to the room that [REDACTED] contacted --

6 A. Yeah.

7 Q. -- when she banged on the door, so that's
8 [REDACTED] correct?

9 A. I didn't know that until today.

10 Q. Well, you just read it in the statement.

11 A. Right, right.

12 Q. All right. So then if you don't know the
13 nature of their relationship, how do you know
14 whether or not she's lying just to cover up so her
15 boyfriend doesn't get thrown in jail for raping
16 another student?

17 MS. SULLIVAN: Objection.

18 THE WITNESS: I have no way of
19 knowing any of that.

20 BY MR. ANGUEIRA:

21 Q. Well, did you ever consider that maybe
22 because of their relationship she's covering up for
23 [REDACTED] so that he doesn't get in trouble?

24 A. I don't recall considering -- I don't

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1 recall.

2 Q. You know that there are times, do you not,
3 that people that are in relationships with other
4 people will lie, perjure themselves to protect that
5 person because they care about them and love them,
6 correct?

7 A. Yes.

8 Q. But you knew nothing about, nor did any of
9 your committee members, panel members know anything
10 about the nature -- the personal relationship
11 between [REDACTED] and [REDACTED] is that correct?

12 MS. SULLIVAN: Objection. You can
13 answer.

14 THE WITNESS: I personally don't
15 recall, and I don't know what the other committee
16 members knew.

17 BY MR. ANGUEIRA:

18 Q. Do you know if the investigators ever
19 asked [REDACTED] or [REDACTED] about the nature of their
20 relationship together?

21 A. I don't recall that either.

22 MR. ANGUEIRA: I'm going to skip the
23 tape to 20:45.

24 "MS. DOHERTY: When he left -- when

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1 he went to answer the door, that was the
2 only time, and I was hiding in the corner
3 at that time.

4 "MR. SCOTT: So then another
5 thing -- so and also the other thing --
6 and I just wanted to let you know while
7 we're asking these questions, don't
8 think -- so things like -- we're not
9 people who subscribe to she was wearing
10 it, so she deserved it, she flirted so
11 she deserved it.

12 "MS. DOHERTY: Yeah. No, I
13 understand.

14 "MR. SCOTT: So don't think that
15 that's where these lines of questions are
16 coming from because again with consent --
17 even if you did give consent at the
18 beginning, you can revoke it at any time.
19 So that's not what this question is
20 about."

21 BY MR. ANGUEIRA:

22 Q. You heard Mr. Scott tell Ms. Doherty that
23 even if you gave consent at the beginning you can
24 revoke it at any time, correct?

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1 A. Correct.

2 Q. Do you agree with that statement?

3 A. Yes.

4 Q. You understood that Ms. Doherty had the
5 right to do that if, in fact, she did do that,
6 correct? That is -- by that I mean that she could
7 have consented to an intimate or sexual act, and
8 during that act decided she didn't want to engage in
9 it anymore and revoked her consent, correct?

10 A. Hypothetically, yes.

11 Q. And if the individual continued to force
12 himself upon her after she said no, you understand
13 that that's rape, correct?

14 A. Yes.

15 MR. ANGUEIRA: I'm going to skip to
16 22:35.

17 "MS. DOHERTY: The kid he was with
18 was -- he smoked marijuana, but I don't
19 know if he did. He never said that, and
20 I didn't really ask, so he could have.
21 But I -- personally I don't know.

22 "MR. JOHNSON: Was he carrying a
23 condom? I mean it seems like a lot
24 happened in a short amount of time.

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1 "MS. DOHERTY: It was there hanging
2 in a shopping bag above my head, so he
3 had a bag full of condoms on his bedpost.

4 "MR. JOHNSON: So while holding you
5 down, he was able to grab a condom?

6 "MS. DOHERTY: He had his legs like
7 wrapped around me. So it was more his
8 legs than his like upper body type of
9 thing.

10 "MR. JOHNSON: Was he sitting on you
11 or --

12 "MS. DOHERTY: Yes, he was like on
13 top of me so I couldn't -- "

14 BY MR. ANGUEIRA:

15 Q. So you heard that exchange between
16 yourself and Ms. Doherty where she described his
17 position and his ability to get a condom from a
18 shopping bag he had over his bed?

19 A. Correct.

20 Q. Is that the part of the testimony that you
21 did not believe?

22 MS. SULLIVAN: Objection. You can
23 answer.

24 THE WITNESS: I won't say I didn't

Bruce Johnson

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1 believe it. I just had questions about it.

2 BY MR. ANGUEIRA:

3 Q. In your mind would you -- were you
4 thinking that it didn't seem credible or possible?
5 Which of the two is it that you had in your thought
6 process or both?

7 A. My feeling was that what was happening was
8 consensual.

9 MR. ANGUEIRA: Okay. I'm going to
10 skip to 30:00.

11 "MS. DOHERTY: The cover -- like he
12 laid on top of me and pulled the covers
13 up so no one could see."

14 MR. ANGUEIRA: Did you guys make a
15 transcription of this or the college? Sometimes
16 they do.

17 MS. SULLIVAN: I can ask the college
18 if they've made copies of certain points.

19 MR. ANGUEIRA: You might want to do
20 that.

21 MS. SULLIVAN: I sent it out to be
22 transcribed, but there were a lot of errors because
23 of the names. So I need to get those corrected, and
24 then I can get you a copy.

Bruce Johnson

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1 MR. ANGUEIRA: Perfect. I think
2 it's fair for everyone.

3 MS. SULLIVAN: I'll do one for
4 attorneys' eyes -- when I produce it, I'll do one
5 for attorneys' eyes only. Then I'll do one for, you
6 know, with the redactions.

7 MR. ANGUEIRA: Okay. Perfect.
8 Sorry for the interruption, still the same frame.

9 "MR. JOHNSON: I have these three
10 questions: When did you say no? What
11 were your words exactly? What was his
12 reaction? Can you take us through that
13 moment of how you said no, what beyond
14 the word no you said, and his reaction.

15 "MS. DOHERTY: Well, originally when
16 we were on the couch, he started touching
17 my leg. I said -- I said stop, like your
18 best friend's in love with me and like --
19 and you know I have a boyfriend. He
20 goes -- he said to me he wasn't the one
21 in love with you, it was me. And I was
22 just like, no, like -- like stop. And
23 then at that point he picked me up and
24 put me on the bed."

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1 BY MR. ANGUEIRA:

2 Q. That's an exchange you had with
3 Ms. Doherty, correct?

4 A. Correct.

5 Q. When she said that then "he picked me up
6 and put me on the bed," did you believe that he was
7 physically capable of doing that or not?

8 A. I believe a strong man is capable of
9 picking up a woman, but I don't know what happened
10 that night.

11 Q. Okay. Well, did you credit her account or
12 discredit her account that he actually picked her up
13 and put her on the bed or the couch?

14 A. I have no way of knowing.

15 MR. ANGUEIRA: Okay.

16 "MS. DOHERTY: What I was doing as
17 he was picking me up, I was -- I freaked
18 out. I was like stop, like trying to
19 like shake when I was being picked up.
20 Well, he didn't pick me up like this. He
21 like bear-hugged me. And I kept saying
22 like stop, please stop, like just stop
23 this. Like you know I have a boyfriend,
24 like stop. Like I just continued saying

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1 stop, stop, stop. And he was like --
2 like you know you want it, like stuff
3 like that like -- and then throughout the
4 whole thing I was like stop, like please
5 stop. Like I really was like -- like I
6 was crying, you know, I was just stop,
7 just like please, just stop, let me go.
8 And he just kept saying like you want it,
9 like stop, like kind of like laughing it
10 off a little. And I was like it's not a
11 joke, just stop. And I just kept asking
12 him to stop."

13 BY MR. ANGUEIRA:

14 Q. When you testified that you had questions
15 about why other people in the room didn't hear her,
16 was it your understanding that those other people in
17 the room were present in the room during the entire
18 interaction between Ms. Doherty and [REDACTED] or only
19 certain portions of it?

20 A. I don't recall specifically, but I know
21 that at one point, like I said before, the gentleman
22 went into the bathroom -- putting some things
23 together from memory here. From the best of my
24 recall it was that I think there was -- the roommate

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1 was in there the entire time with his girlfriend I
2 believe.

3 Q. Okay. And what's the -- what's the name
4 of the roommate, and what's the name of the
5 girlfriend?

6 A. I think it was --

7 Q. Your lawyer can help you.

8 A. -- [REDACTED]

9 MR. ANGUEIRA: Do we need to go off
10 the record, do you think?

11 MS. SULLIVAN: Sure.

12 MR. ANGUEIRA: Let's go off the
13 record.

14 (Discussion held off the record.)

15 BY MR. ANGUEIRA:

16 Q. So we're looking at Exhibit 10, and four
17 pages in there's a statement that's dated Monday,
18 September 22, 2014, that begins "Got back to dorm
19 around 2:30, went to the bathroom to brush his
20 teeth." Who is that person?

21 A. [REDACTED] [REDACTED]

22 Q. Okay. And that's the person that you said
23 was in [REDACTED] room, his roommate, correct?

24 A. I don't know if it's his roommate. I just

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1 know he was in the room at the time.

2 Q. Okay. So this time that he reported,
3 about 2:30 when he got back to dorm, does that mean
4 that's the time he claims he got into the room?

5 A. I would -- I can only assume because you
6 would go to your -- the bathroom is in the room.

7 Q. Okay. In terms of the timeline that
8 Ms. Doherty gave through her text and the timeline
9 created by the investigators in this case, at what
10 time did the actual altercation, if you will,
11 between [REDACTED] and -- or interaction between [REDACTED]
12 and Elisabeth Doherty begin -- where she says she'd
13 get back into his room and the process began?

14 A. I'd have to check the times on that.

15 Q. Sure. Go ahead. There's a timeline the
16 investigators created. I believe it's the second
17 page of Exhibit 10. It says "Timeline." Does that
18 help? Your lawyer can help you find it.

19 Do you see how this timeline --
20 according to your investigators, they say that
21 Ms. Doherty arrived at [REDACTED] dorm at about 2:08
22 to 2:10 a.m.?

23 A. Okay, yeah.

24 Q. I mean that's what your investigators

Bruce Johnson

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1 said, right?

2 A. Yeah.

3 Q. And this fellow claims that he got back to
4 the room from wherever he was at 2:30, correct?

5 A. Okay.

6 Q. So do you agree with me that that means
7 that at least some part of the interaction between
8 [REDACTED] and Ms. Doherty occurred before this roommate
9 was even in the room?

10 A. According to this report, correct.

11 Q. Okay. And do you know whether or not --
12 do you know in terms of the timeframe, when this man
13 [REDACTED] got into [REDACTED] room, where was Ms. Doherty
14 and what was [REDACTED] doing to Ms. Doherty? Do you
15 know that?

16 A. I'd have to read --

17 Q. Sure.

18 MS. SULLIVAN: I also just want to
19 point out that there's another name listed, and
20 that's on Page -- I'll show you. It's on Page --
21 one, two, three, four, five -- that's on Page 7.

22 MR. ANGUEIRA: Okay. And he's
23 looking at that now. Can you point that one out to
24 me, please.

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1 THE WITNESS: Okay. He's the
2 main --

3 BY MR. ANGUEIRA:

4 Q. So now you found another section of the
5 investigation report, a statement by a [REDACTED]
6 [REDACTED] begins about seven pages in in Exhibit 10.
7 It's dated 10-2-2014. And then it says -- I don't
8 know if that's [REDACTED] [REDACTED] that's blacked out.
9 "Did not have a key to the room so he thought it
10 was" --

11 MS. SULLIVAN: It says [REDACTED]

12 BY MR. ANGUEIRA:

13 Q. -- "[REDACTED] banging on the door. He opened
14 the door and it was [REDACTED]

15 MS. SULLIVAN: [REDACTED]

16 BY MR. ANGUEIRA:

17 Q. Oh, [REDACTED] Okay. So as I look at this
18 statement, is it your -- is it your memory that this
19 gentleman [REDACTED] was in the room when Ms. Doherty
20 first came to [REDACTED] room?

21 A. Yes, that's my memory.

22 Q. And where does it say that?

23 A. His head was near the wall, but at what
24 point in time --

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1 Q. Well, it said "his head was near the
2 wall," at what point in time? In other words, what
3 I'm trying to decipher from all this information, if
4 you can help us is, what evidence did you have --

5 MS. SULLIVAN: Here, it's on Page 2.
6 And I know you don't have the -- you don't have the
7 one that I have that's not redacted, but on Page 2,
8 about halfway down it said, "[REDACTED] was home but
9 asleep. He never came out of his room."

10 MR. ANGUEIRA: Find that for me.

11 MS. SULLIVAN: That said [REDACTED]

12 BY MR. ANGUEIRA:

13 Q. Okay. So based on the investigation and
14 the timeline, it was your understanding that this
15 fellow [REDACTED] was in the room all the time asleep,
16 correct? Until the point in time when he claims
17 that he went to the bathroom or did something,
18 right?

19 A. We only know he was in the room --

20 Q. Asleep, that's what your investigators --

21 A. Well, we don't know how -- when he was
22 asleep, but we know he was in the room.

23 Q. Well, it's 2 o'clock to 2:30 in the
24 morning, right? Your investigators said he was in

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1 the room asleep. That's what this note says
2 until -- his statement says that he got up for some
3 reason, right?

4 So my question to you is, how do you
5 know whether or not he was asleep during the
6 interaction when Ms. Doherty was telling [REDACTED] no,
7 no, stop, stop? Do you know if he was awake during
8 that period of time or not?

9 A. Excuse me?

10 Q. Was he awake or was he asleep?

11 A. I have no way of knowing.

12 Q. Was he drunk?

13 A. He said his head was near the wall, he
14 felt like he'd have heard something. We thought he
15 was a witness.

16 Q. So his head was near the wall, he was
17 asleep. What was his state of consciousness in
18 terms of alcohol or drugs in his system at the time?

19 A. Well, I have no idea about any of that of
20 course.

21 Q. Was he passed out from having been
22 drinking all day?

23 A. I have no idea.

24 Q. What was his state of sobriety?

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1 A. No idea.

2 Q. Did anybody ask him?

3 A. That I do not know.

4 Q. Did any of these investigators ever ask or
5 determine the state of sobriety of any of these
6 witnesses?

7 A. I'd have to read more reports, but I don't
8 know offhand.

9 Q. Now, we do know from [REDACTED] statement --
10 it's [REDACTED] right? -- oh, no, this is -- who is it
11 that claims that they got up to go to the bathroom?

12 MS. SULLIVAN: [REDACTED]

13 BY MR. ANGUEIRA:

14 Q. [REDACTED] Okay. Do we know what the state of
15 his sobriety is?

16 A. No.

17 Q. Do we know -- or strike that. Did you
18 know what the nature of the relationship was among
19 these men, this [REDACTED] guy, [REDACTED] and [REDACTED]

20 A. Roommates. Well --

21 Q. Were they on the football team together?

22 A. [REDACTED] played football. I don't know if
23 [REDACTED] -- [REDACTED] [REDACTED] played football.

24 Q. Did you ever hear that sometimes buddies

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1 stick up for each other, say things that aren't true
2 so that the buddy doesn't get into trouble?

3 MS. SULLIVAN: Objection. You can
4 answer.

5 THE WITNESS: In certain scenarios I
6 suppose that can happen.

7 BY MR. ANGUEIRA:

8 Q. You knew and you thought about this, that
9 [REDACTED] is a football player, and any other football
10 players on the team with him could get into a lot of
11 trouble if these allegations came out to be true,
12 right?

13 A. Anyone accused of rape would be in trouble
14 certainly.

15 Q. They'd get kicked off the team, maybe even
16 get kicked out of the school?

17 A. Absolutely.

18 Q. And if his roommate who is on the football
19 team sat silently by while a woman was being raped
20 and didn't do anything about it, were those actions
21 that could result in discipline to the student?

22 A. You're giving me a hypothetical --

23 MS. SULLIVAN: Objection.

24 THE WITNESS: -- and I'd have to

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1 know many more circumstances here.

2 BY MR. ANGUEIRA:

3 Q. Okay. So you don't know?

4 A. Why don't you pose your question one more
5 time.

6 Q. Of course. If a student is aware that a
7 rape is ongoing in a dorm at your college and
8 doesn't do anything about reporting it and/or
9 falsely testifies during the investigation, is that
10 action -- or is his conduct the type of conduct that
11 may warrant discipline?

12 A. Yes.

13 Q. And neither you nor the other two panel
14 members nor any of the investigators ever looked
15 into the nature of the relationship among these
16 individuals, correct?

17 MS. SULLIVAN: Objection.

18 BY MR. ANGUEIRA:

19 Q. Other than what's in the report?

20 MS. SULLIVAN: Objection. You can
21 answer.

22 BY MR. ANGUEIRA:

23 Q. Is that correct?

24 A. I don't -- I'm not -- I really don't

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1 recall that.

2 Q. Who was the -- who are the witnesses that
3 actually testified at the hearing?

4 A. Nobody.

5 Q. Well, Ms. Doherty did.

6 A. Well, Ms. Doherty, right, but no
7 witnesses. Well, she's the accused.

8 Q. She's the accused or the accuser? Or was
9 she the accused in your mind?

10 MS. SULLIVAN: Objection.

11 THE WITNESS: She was not accused.
12 She was the accused -- wait a minute.

13 BY MR. ANGUEIRA:

14 Q. That's okay. The accused means the person
15 that somebody's --

16 A. I'm sorry, accuser. I'm getting my --

17 Q. It's okay.

18 A. -- and nervousness a little bit here.

19 Q. It's okay. Did the board have the
20 authority or the power to call witnesses if it
21 wanted to? By that I mean the panel.

22 A. I assume -- I don't -- I don't recall. I
23 assume so.

24 Q. Okay. Did any of the panel members ever

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1 suggest that maybe we should make these people come
2 in and testify live in front of us so we can see
3 them and hear them?

4 A. Well, I think we read their statements and
5 there was credibility added to or not added to them,
6 and that's what we went on. I don't recall -- yeah.

7 MR. ANGUEIRA: I'm going to go to
8 Section 41:35 in the tape.

9 "MR. JOHNSON: One thing that came
10 up in -- so [REDACTED] statement -- she
11 just mentioned something. Let me see
12 what -- she said that you came back and
13 both of your roommates were in the room
14 at the time, right? So when you came
15 back, they were both there?

16 "MS. DOHERTY: [REDACTED] was in her
17 bedroom and [REDACTED] and her boyfriend were
18 in her bedroom -- my bedroom.

19 "MR. JOHNSON: And you told -- so
20 then you told her that you yelled and
21 shouted a lot, but nobody did anything.
22 So just -- because it -- so I'm just
23 trying to put that together with kind of
24 what you were saying that actually

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1 happened.

2 "MS. DOHERTY: I just -- I mean I
3 don't know what I said to her. I really
4 don't remember. I just remember running
5 down the hallway, bawling my eyes out.
6 And then I -- I know I woke her up. I
7 was just like at the end of her bed,
8 like -- like he just raped me. And then
9 I honestly have no idea what I said
10 then. I don't remember."

11 BY MR. ANGUEIRA:

12 Q. Ms. Doherty is now testifying that she
13 honestly doesn't remember what she said, at least at
14 this hearing. Did you recognize that as the type of
15 testimony that a rape victim would give because of
16 the trauma or shock that she's been through or not?

17 A. I have no way of knowing.

18 Q. So you never received any training or
19 education in that regard?

20 A. Certainly. We just were trying to decide
21 what made her react that way. Part of training is
22 to understand the reactions of people and how they
23 may respond to it. That was -- the reason was that
24 we weren't sure what traumatized her.

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1 MR. ANGUEIRA: Okay. I'm skipping
2 to 45:35 now.

3 MS. SULLIVAN: Can we just go off
4 for one second.

5 (Discussion held off the record.)

6 "MR. SCOTT: What is something
7 that -- what would you like to see
8 from this? So what is something that you
9 as the person who -- I guess in this
10 you're technically considered the
11 complainant. So if you" --

12 MR. ANGUEIRA: I'm stopping this at
13 45:40. I'm going to ask Mr. Scott that question,
14 because that's him asking Ms. Doherty, and continue
15 to expedite this depo.

16 I'm skipping to 49:20. Let's listen
17 to it, and it may be something for Mr. Scott as
18 well.

19 "MS. DOHERTY: He just was living in
20 the same room when he was trespassed.

21 "MS. LENNA: But nobody --

22 "MS. DOHERTY: Nobody knew, yeah.

23 "MS. LENNA: Exactly so we need to
24 have somebody that would speak up

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1 for us."

2 MR. ANGUEIRA: I'm stopping it
3 there. I don't need to ask you questions about that
4 also.

5 Actually let's go off the record.
6 Let me look at these last three sections.

7 (Discussion held off the record.)

8 MR. ANGUEIRA: I don't have any
9 other questions. Thank you very much, sir.

10 THE WITNESS: Okay. Thank you.

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1 COMMONWEALTH OF MASSACHUSETTS COUNTY OF MIDDLESEX

2 I, PENNI L. LaLIBERTÉ, Certified
3 Shorthand Reporter No. 10656 and Notary Public in
4 and for the Commonwealth of Massachusetts, do hereby
5 certify that BRUCE D. JOHNSON came before me on
6 Wednesday, March 21, 2018, the deponent herein, who
7 was duly sworn; the examination was reduced to
8 printing under my direction and control; and the
9 within transcript is a true record of the testimony
10 given at said deposition.

11 I further certify that I am neither
12 attorney or counsel for, nor related to or employed
13 by any of the parties to the action in which this
14 deposition is taken; and, further, that I am not a
15 relative or employee of any attorney or counsel
16 employed by the parties hereto, or financially
17 interested in the outcome of the action.

18 IN WITNESS WHEREOF I have hereunto set my
19 hand this 29th day of March, 2018.

20
21 

22 PENNI L. LaLIBERTÉ, Notary Public

23 My Commission expires 11/12/21
24